

Tab 1	SB 232 by Garcia; (Similar to H 00603) Exploitation of Vulnerable Persons				
942216	A	S	CJ, Garcia	Delete L.123 - 308:	03/10 03:17 PM
Tab 2	SB 310 by Collins; (Identical to H 00279) Federal Law Enforcement Agency Records				
Tab 3	SB 384 by Bradley; (Similar to CS/H 00071) Violent Offenses Committed Against Criminal Defense Attorneys				
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Tab 4	SB 446 by Rodriguez; (Identical to H 00369) Offenses Committed Upon Assistant State Attorneys				
Tab 5	SB 486 by Bradley; (Identical to H 00431) Solicitation of Minors to Commit Lewd or Lascivious Acts				
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Tab 6	SB 568 by Rodriguez (CO-INTRODUCERS) Hooper; (Similar to H 00825) Assault or Battery on Hospital Personnel				
Tab 7	SB 656 by Burgess; Unlawful Possession of Firearms, Ammunition, or Electric Weapons or Devices				
Tab 8	SB 676 by Grall; (Similar to H 00249) Background Screenings				
Tab 9	SB 736 by Brodeur; (Similar to H 01135) Controlled Substances				
Tab 10	SB 1086 by Gruters; (Similar to H 00927) Rights of Law Enforcement Officers				
Tab 11	SPB 7014 by CJ; Juvenile Justice				
Tab 12	SPB 7016 by CJ; Department of Corrections				
Tab 13	SPB 7018 by CJ; Inmate Welfare Trust Fund				

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Monday, March 13, 2023

TIME: 3:30—5:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Martin, Chair; Senator Bradley, Vice Chair; Senators Ingoglia, Perry, Pizzo, Polsky, Powell, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 232 Garcia (Similar H 603)	Exploitation of Vulnerable Persons; Specifying conditions under which a person commits exploitation of a person 65 years of age or older; providing criminal penalties for violations of the act; authorizing persons who are in imminent danger of exploitation to petition for an injunction for protection; providing time limitations for commencing prosecution for violations of the act, etc.	
		CJ 03/13/2023 JU FP	
2	SB 310 Collins (Identical H 279)	Federal Law Enforcement Agency Records; Revising the general state policy on public records to include certain federal law enforcement agency records; revising definitions; requiring certain federal law enforcement agencies to comply with the public records requirements of this state, etc.	
		CJ 03/13/2023 GO RC	
3	SB 384 Bradley (Similar CS/H 71)	Violent Offenses Committed Against Criminal Defense Attorneys; Providing for the reclassification of specified offenses committed against criminal defense attorneys, etc.	
		CJ 03/13/2023 JU RC	
4	SB 446 Rodriguez (Identical H 369)	Offenses Committed Upon Assistant State Attorneys; Providing for the enhancement of criminal penalties for certain assault or battery offenses committed upon assistant state attorneys, etc.	
		CJ 03/13/2023 JU RC	

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 13, 2023, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 486 Bradley (Identical H 431)	Solicitation of Minors to Commit Lewd or Lascivious Acts; Prohibiting a person 24 years of age or older from soliciting a person 16 or 17 years of age in writing to commit a lewd or lascivious act, etc. CJ 03/13/2023 ACJ FP	
6	SB 568 Rodriguez (Similar H 825)	Assault or Battery on Hospital Personnel; Providing enhanced criminal penalties for persons who knowingly commit assault or battery upon hospital personnel, etc. CJ 03/13/2023 HP RC	
7	SB 656 Burgess	Unlawful Possession of Firearms, Ammunition, or Electric Weapons or Devices; Revising the circumstances under which it is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, etc. CJ 03/13/2023 JU RC	
8	SB 676 Grall (Similar H 249)	Background Screenings; Revising level 2 screening requirements; requiring the Care Provider Background Screening Clearinghouse to allow the results of certain screenings after a date certain to be shared among specified agencies and qualified entities; revising requirements relating to background screenings for independent sanctioning authorities; revising requirements for the Criminal Justice Information Program relating to fingerprint searches; revising screening standard requirements for educator certification or employment in positions that require direct contact with certain students, etc. CJ 03/13/2023 ACJ AP	
9	SB 736 Brodeur (Similar H 1135)	Controlled Substances; Adding nitazene derivatives to the list of Schedule I controlled substances, etc. CJ 03/13/2023 FP	

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 13, 2023, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 1086 Gruters (Similar H 927)	Rights of Law Enforcement Officers; Prohibiting a law enforcement agency from issuing any disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or correctional officer unless certain conditions apply; authorizing the officer to challenge such disciplinary action, suspension, demotion, or dismissal administratively or in a court of competent jurisdiction; providing that an officer has the right to challenge a specified violation administratively or in a court of competent jurisdiction, if certain conditions exist, etc. CJ 03/13/2023 GO RC	
Consideration of proposed bill:			
11	SPB 7014	Juvenile Justice; Requiring that the secretary of the Department of Juvenile Justice oversee the establishment of the Florida Scholars Academy; requiring the academy to provide students with greater access to secondary and postsecondary educational opportunities; specifying that the academy is a component of the delivery of public education within Florida's Early Learning-20 education system; requiring the department to provide early notice to school districts regarding the siting of new juvenile justice detention facilities, etc.	
Consideration of proposed bill:			
12	SPB 7016	Department of Corrections; Providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections who engages in sexual misconduct with specified inmates or offenders; providing for a type two transfer of private correctional facilities from the Department of Management Services to the Department of Corrections, etc.	
Consideration of proposed bill:			
13	SPB 7018	Inmate Welfare Trust Fund; Adding additional funding sources from which all proceeds must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or the General Revenue Fund; requiring that the proceeds from nonemergency health care visit copayments be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or into the General Revenue Fund, etc.	

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 13, 2023, 3:30—5:30 p.m.

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Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 232

INTRODUCER: Senator Garcia

SUBJECT: Exploitation of Vulnerable Persons

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Pre-meeting
2.			JU	
3.			FP	

I. Summary:

SB 232 creates s. 817.5695, F.S., which punishes exploitation of a person 65 years of age or older by:

- Obtaining or using, through deception or intimidation, the property of a person 65 years of age or older with the intent to temporarily or permanently:
 - Deprive that person of the use, benefit, or possession of the property; or
 - Benefit someone other than the property owner;
- Obtaining or using, through deception or intimidation, the property of a person 65 years of age or older by violating his or her intent as expressed in a will, trust instrument, or other testamentary devise and the individual has a fiduciary duty to the person 65 years of age or older; or
- Depriving, with the intent to defraud and by means of bribery or kickbacks, a person 65 years of age or older of his or her intangible right to honest services provided by an individual who has a legal or fiduciary relationship with such person.

If the funds, assets, or property involved in the exploitation are valued at:

- \$50,000 or more, the offender commits a level 7 first degree felony.
- \$10,000 or more, but less than \$50,000, the offender commits a level 5 second degree felony.
- Less than \$10,000, the offender commits a level 3 third degree felony.

In a prosecution for a violation of s. 817.5695, F.S., the state may move the court to advance a trial on the court's docket and the court must consider the victim's age and health in determining whether to advance the trial.

A person 65 years of age or older who is in imminent danger of being exploited may petition for an injunction for protection under s. 825.1035, F.S.

Prosecution for a felony violation of s. 817.5695, F.S., s. 825.102, F.S. (abuse of an elderly person or disabled adult), or s. 825.103, F.S. (exploitation of an elderly person or disabled adult) must be commenced within five years after the crime is committed, but if fraud or breach of fiduciary duty is a material element of the offense, the offense may be prosecuted within five years after discovery of the offense.

The Legislature's Office of Economic and Demographic Research preliminary estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

Trends Regarding Elder Exploitation

"The National Council on Aging estimates that 1 in 10 Americans over the age of 60 have experienced elder abuse," which can include financial exploitation.¹ According to the most recent report by the Federal Bureau of Investigation (FBI), "[i]n 2021, over 92,000 victims over the age of 60 reported losses of \$1.7 billion to the [Internet Crime Complaint Center or "IC3"]".² This represents a 74 percent increase in losses over losses reported in 2020."³ Average loss per victim was \$18,246.⁴

According to the FBI's report, Florida ranked second in the nation in fraud victims over age 60 (9,645) with losses from that fraud reported to be \$224,205,716.⁵

The elderly are particularly vulnerable to financial exploitation. The problem of elder financial exploitation is likely to get worse because of "three interrelated sets of factors": "health-related effects of aging; financial and retirement trends; and demographic trends."⁶

"Cognitive decline is a key factor ..., even without the presence of disease," and "[p]hysical decline and dependency are also risk factors for elder financial exploitation." "[T]he wealth of

¹ *Elder Justice*, National Association of Attorneys General, available at <https://www.naag.org/issues/elder-justice/> (last visited on Feb. 28, 2023). See *Get the Facts on Elder Abuse* (Feb. 23, 2021), available at <https://www.ncoa.org/article/get-the-facts-on-elder-abuse> (last visited on Feb. 28, 2023).

² The Internet Crime Complaint Center is run by the FBI. *Internet Crime Complaint Center (IC3)*, Federal Bureau of Investigation, available at <https://www.ic3.gov/> (last visited on Feb. 28, 2023).

³ *2021 Elder Fraud Report*, Federal Bureau of Investigation, at p. 3, available at <https://www.justice.gov/file/1523276/download> (last visited on Feb. 28, 2023). This report is further referenced as "2021 Elder Fraud Report."

⁴ *2021 Elder Fraud Report*, *supra*, at p. 4.

⁵ *2021 Elder Fraud Report*, *supra*, at pp. 11 and 12. The FBI states: "This information is based on the total number of complaints from each state, American Territory, and the District of Columbia when the complainant provided state information." *Id.*

⁶ Deane, Stephen. *Elder Financial Exploitation* (white paper) (June 2018), at p. i, U.S. Securities and Exchange Commission (SEC), Office of the Investor Advocate, available at <https://www.sec.gov/files/elder-financial-exploitation.pdf> (last visited on Feb. 28, 2023). Views expressed in the white paper are those of the author and do not necessarily reflect the views of the SEC. This white paper is further referenced as "Elder Financial Exploitation."

older generations” also “makes them targets for financial exploitation.”⁷ “Paradoxically, though, the elderly poor are at even greater risk of financial exploitation.”⁸

“Financial and pension trends further compound the problem.” “The shift from defined benefit to defined contribution plans has placed responsibility onto the elderly themselves to manage their retirement savings—ironically, just at a time in their lives when their ability to do so may become impaired.” Further, “[r]etirees are also taking on more student debt (often for their children’s or grandchildren’s benefit).”⁹

Finally, “dramatic increases in the elderly population threaten ... to spur parallel growth in elderly financial exploitation.”¹⁰ According to the 2022 U.S. Census, persons over 65 years of age represent approximately 21 percent of Florida’s population (nearly 4.7 million Floridians).¹¹ Further, the U.S. Department of Health and Human Services has provided the following information regarding that demographic trend nationally:

In 2019, there were 54.1 million people age 65 and older (up from 39.6 million in 2009). The population is projected to reach 80.8 million by 2040 and 94.7 million by 2060. *All but a tiny percentage of them live in non-institutional settings, as do more than 61 million people with disabilities.* Both populations are growing, and older Americans are one of the fastest-growing demographics in the country.¹²

Florida Laws Relating to Elder Exploitation

Exploitation of an Elderly Person or Disabled Adult under s. 825.103, F.S.

Section 825.103, F.S., punishes exploitation of an elderly person or disabled adult.

For purposes of ch. 825, F.S., an “elderly person” is a person 60 years of age or older¹³ who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.¹⁴

For purposes of ch. 825, F.S., a “disabled person” is a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability,

⁷ *Elder Financial Exploitation*, *supra*. According to the American Bankers Association, “people over 50 years old control over 70 percent of the nation’s wealth.” *Protect the Elderly from Financial Exploitation*, American Bankers Association, available at <https://www.aba.com/advocacy/community-programs/consumer-resources/protect-your-money/elderly-financial-abuse> (last visited on Feb. 28, 2023).

⁸ *Elder Financial Exploitation*, *supra*.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *QuickFacts Florida*, U.S. Census Bureau, available at <https://www.census.gov/quickfacts/fact/table/FL/PST045222#PST045222> (last visited on Feb. 28, 2023).

¹² *Projected Future Growth of Older Population*, U.S. Department of Health and Human Services, Administration for Community Living, available at <https://acl.gov/aging-and-disability-in-america/data-and-research/projected-future-growth-older-population> (last visited on Feb. 28, 2023). Emphasis provided by staff.

¹³ Lack of knowledge of the victim’s age is not defense to prosecution for any violation under ch. 825, F.S. Section 825.104, F.S.

¹⁴ Section 825.101(4), F.S.

organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.¹⁵

As is evident from these definitions, ch. 825, F.S., in general, and s. 825.103, F.S., in particular, only address exploitation of a subset of persons 65 years of age or older who are the victims of exploitation.

Under s. 825.103, F.S., exploitation of an elderly person or disabled adult means:

- Knowingly obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who:
 - Stands in a position of trust and confidence with the elderly person or disabled adult; or
 - Has a business relationship with the elderly person or disabled adult;
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent;
- Breach of a fiduciary duty to an elderly person or disabled adult by the person's guardian, trustee who is an individual, or agent under a power of attorney which results in an unauthorized appropriation, sale, transfer of property, kickback, or receipt of an improper benefit. An unauthorized appropriation occurs when the elderly person or disabled adult does not receive the reasonably equivalent financial value in goods or services, or when the fiduciary violates any of these duties:
 - For agents appointed under ch. 709, F.S.¹⁶:
 - Committing fraud in obtaining their appointments;
 - Obtaining appointments with the purpose and design of benefiting someone other than the principal or beneficiary;
 - Abusing their powers;
 - Wasting, embezzling, or intentionally mismanaging the assets of the principal or beneficiary; or
 - Acting contrary to the principal's sole benefit or best interest; or
 - For guardians and trustees who are individuals and who are appointed under ch. 736, F.S., or ch. 744, F.S.:
 - Committing fraud in obtaining their appointments;
 - Obtaining appointments with the purpose and design of benefiting someone other than the principal or beneficiary;
 - Abusing their powers; or
 - Wasting, embezzling, or intentionally mismanaging the assets of the ward or beneficiary of the trust;

¹⁵ Section 825.101(3), F.S.

¹⁶ A person granted authority to act for a principal under a power of attorney. Section 709.2102(1), F.S.

- Misappropriating, misusing, or transferring without authorization money belonging to an elderly person or disabled adult from an account in which the elderly person or disabled adult placed the funds, owned the funds, and was the sole contributor or payee of the funds before the misappropriation, misuse, or unauthorized transfer. This provision only applies to the following types of accounts:
 - Personal accounts;
 - Joint accounts created with the intent that only the elderly person or disabled adult enjoys all rights, interests, and claims to moneys deposited into such account; or
 - Convenience accounts created in accordance with s. 655.80, F.S.;
- Intentionally or negligently failing to effectively use an elderly person's or disabled adult's income and assets for the necessities required for that person's support and maintenance, by a caregiver or a person who stands in a position of trust and confidence with the elderly person or disabled adult; or
- Knowingly obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or a disabled adult's funds, assets, property, or estate through intentional modification, alteration, or fraudulent creation of a plan of distribution or disbursement expressed in a will, trust agreement, or other testamentary devise of the elderly person or disabled adult without:
 - A court order, from a court having jurisdiction over the elderly person or disabled adult, which authorizes the modification or alteration;
 - A written instrument executed by the elderly person or disabled adult, sworn to and witnessed by two persons who would be competent as witnesses to a will, which authorizes the modification or alteration; or
 - Action of an agent under a valid power of attorney executed by the elderly person or disabled adult which authorizes the modification or alteration.¹⁷

Punishment of any of the previously-described violations is based on the value of the funds, assets, or property involved in the exploitation of the elderly person or disabled adult:

- Level 8¹⁸ first degree felony¹⁹ (value is \$50,000 or more);
- Level 7 second degree felony²⁰ (value is 10,000 or more, but less than \$50,000); and
- Level 6 third degree felony²¹ (value is less than \$10,000).²²

¹⁷ Section 825.103(1), F.S.

¹⁸ The Criminal Punishment Code (Code) (ss. 921.002-921.0027, F.S.) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Section 921.0022(2), F.S. Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Section 921.0024, F.S. Sentence points escalate as the severity level escalates. These points are relevant to determining whether the offender scores a prison sentence as the minimum sentence, and if so scored, the length of that sentence. *Id.* The offense severity ranking is either assigned by specifically ranking the offense in the Code offense severity level ranking chart (s. 921.0022(3), F.S.) or ranking the offense by "default" based on its felony degree (s. 921.0023, F.S.).

¹⁹ A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

²⁰ A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

²¹ A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

²² Sections 825.103(3)(a)-(c) and 921.0022(3)(f)-(h), F.S. Chapter 825, F.S., is not intended to impose criminal liability on a person who makes a good faith effort to assist an elderly person or disabled adult in the management of the funds, assets, or property of the elderly person or disabled adult, which effort fails through no fault of the person. Section 825.105, F.S.

Statute of Limitations for Violations of s. 825.103, F.S.

Generally, prosecutors have five years to prosecute a violation of s. 825.103, F.S.²³ However, if the period of limitation has expired, a prosecution may be commenced for any offense, a material element of which is fraud, or breach of a fiduciary obligation within one year after discovery of the offense by an aggrieved party or person who has a legal duty to represent an aggrieved party and who is not himself or herself a party.²⁴ The period of limitation may not be extended by more than three years.²⁵

Injunctive Relief

Section 825.1035, F.S., creates a cause of action for an injunction for protection against exploitation²⁶ of a vulnerable adult²⁷ which may be sought in an adversary proceeding by:

- A vulnerable adult in imminent danger of being exploited;
- The guardian of a vulnerable adult in imminent danger of being exploited;
- A person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian;
- An agent under a valid durable power of attorney with the authority specifically granted in the power of attorney; or
- A person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.²⁸

In determining whether a petitioner has reasonable cause to believe that the vulnerable adult is, or is in imminent danger of becoming, a victim of exploitation, the court must consider and evaluate all relevant factors, including, but not limited to, any of the following:

- The existence of a verifiable order of protection issued previously or from another jurisdiction.
- Any history of exploitation by the respondent upon the vulnerable adult in the petition or any other vulnerable adult.
- Any history of the vulnerable adult being previously exploited or unduly influenced.
- The capacity of the vulnerable adult to make decisions related to his or her finances and property.
- Susceptibility of the vulnerable adult to undue influence.
- Any criminal history of the respondent or previous probable cause findings by the adult protective services program, if known.²⁹

Mandatory Reporting of Elder Exploitation

Section 415.103, F.S., requires any person who knows, or has reasonable cause to suspect, that a vulnerable adult has been exploited to immediately report such knowledge or suspicion to the

²³ Section 775.15(10), F.S.

²⁴ Section 775.15(12)(a), F.S.

²⁵ *Id.*

²⁶ Exploitation means exploitation of an elderly person or disabled adult under s. 825.103(1), F.S. Section 825.101(6), F.S.

²⁷ See discussion of the definition of “vulnerable adult,” *supra*.

²⁸ Section 825.1035(2), F.S.

²⁹ Section 825.1035(6), F.S.

central abuse hotline operated by the Department of Children and Family Services.³⁰ For purposes of both ch. 415, F.S., and ch. 825, F.S., a “vulnerable adult” is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.³¹

Although the reporting is mandatory for any person, the law specifically mentions reporting by specified professionals, employees, or entities such as:

- Medical personnel engaged in the admission, examination, care, or treatment of vulnerable adults;
- Professional adult care, residential, or institutional staff;
- A bank, savings and loan, or credit union officer, trustee, or employee; or
- Dealer, investment adviser, or associated person under ch. 517, F.S.³²

It is a second degree misdemeanor³³ for a person to knowingly and willfully fail to report a case of known or suspected exploitation of a vulnerable adult or prevent another person from doing so.³⁴

Disqualifications and Forfeitures Relating to the Commission of Elder Exploitation

Section 733.303, F.S., in part, establishes that a person is not qualified to act as a personal representative if the person has been convicted in any state or foreign jurisdiction of exploitation of an elderly person or a disabled adult, as those terms are defined in s. 825.101, F.S.

Section 732.8031, F.S., in part, specifies when benefits or interests of a deceased elderly person or disabled adult are forfeited by certain persons who are convicted in any state or foreign jurisdiction of exploitation of an elderly person or a disabled adult, as those terms are defined in s. 825.101, F.S.:

- A surviving person convicted of such exploitation for conduct against the decedent or another person on whose death such beneficiary’s interest depends is not entitled to any benefits under the will of the decedent or the Florida Probate Code.
- A joint tenant convicted in any state or foreign jurisdiction of abuse, neglect, exploitation, or aggravated manslaughter of such exploitation against another joint tenant decedent thereby effects a severance of the interest of the decedent so that the share of the decedent passes as the decedent’s sole property.
- A named beneficiary of a bond, life insurance policy, or other contractual arrangement convicted of such exploitation for conduct against the owner or principal obligee of the bond, life insurance policy, or other contractual arrangement or the person upon whose life such policy was issued is not entitled to any benefit under the bond, policy, or other contractual

³⁰ See *Abuse Hotline*, Florida Department of Children and Families, available at <https://www.myflfamilies.com/service-programs/abuse-hotline/report-online.shtml> (last visited on Feb. 28, 2023).

³¹ Sections 415.102(28) and 825.101(16), F.S.

³² Section 415.1034(1), F.S.

³³ A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.083, F.S.

³⁴ Section 415.111(1), F.S.

arrangement, and the bond, policy, or other contractual arrangement becomes payable as though the abuser, neglecter, exploiter, or killer had predeceased the decedent.³⁵

Duties of Securities Dealer and Investment Adviser to Protect Elderly from Exploitation

Section 517.34, F.S., imposes certain duties on a dealer or investment adviser to protect a specified adult from financial exploitation. A “specified adult” is a natural person 65 years of age or older, or a vulnerable adult as defined in s. 415.102, F.S.³⁶ “Financial exploitation” means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:

- Obtain control over the specified adult’s money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or
- Convert the specified adult’s money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.³⁷

A securities dealer or investment adviser may delay a disbursement or transaction of funds or securities from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if certain criteria are met including that the securities dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction. The delay is for a specified, limited period, and there are requirements relating to training, policy and procedure, notice, and records disclosure that must be met regarding the delay.³⁸

White Color Crime and Elder Exploitation

Enhanced penalties are available under s. 775.0844, F.S., the White Collar Crime Victim Protection Act. “White collar crime” includes the commission of, or a conspiracy to commit, any felony offense specified in ch. 825, F.S., felony theft offenses under ch. 812, F.S., and various felony theft and fraud offenses.³⁹ A person commits an “aggravated white collar crime” if the person engages in at least two white collar crimes that have the same or similar intents, results, accomplices, victims, or methods of commission, or that are otherwise interrelated by distinguishing characteristics and are not isolated incidents, provided that at least one of such crimes occurred after the effective date of this act.⁴⁰ Any person who commits an aggravated white collar crime and in so doing victimizes 10 or more elderly persons, as defined in s. 825.101, F.S., and thereby obtains or attempts to obtain \$50,000 or more, commits a Level 9 first degree felony.⁴¹

³⁵ Section 732.8031(1)-(3), F.S.

³⁶ Section 517.34(1)(b), F.S.

³⁷ Section 517.34(1)(a), F.S.

³⁸ Section 517.34(3) and (4), F.S.

³⁹ Section 775.0844(3)(a)2., 4., 5., and 11., and (b)-(d), F.S.

⁴⁰ Section 775.0844(4), F.S.

⁴¹ Section 775.0844(5), F.S. A person convicted of an aggravated white collar crime may pay a fine of \$500,000 or double the value of the pecuniary gain or loss, whichever is greater. Further, this person is liable for all court costs and must pay restitution to each victim of the crime. Section 775.0844(7), F.S.

Racketeering and Elder Exploitation

The Florida Racketeer Influenced and Corrupt Organization (RICO) Act is found at ss. 895.01-895.06, F.S. “Racketeering activity” means committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any exploitation of an elderly person or disabled adult.⁴²

Section 895.03, F.S., provides that it is unlawful for any person:

- Who with criminal intent has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
- Through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.
- Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.
- To conspire or endeavor to violate any of the previously-described activity.

Section 895.04(1), F.S., punishes as a first degree felony engaging in activity in violation of s. 895.03, F.S. In addition to criminal penalties under s. 895.04, F.S., s. 895.05, F.S., imposes civil liability for violations of the Florida RICO Act, including forfeiture to the state of all property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the act.⁴³

Enhanced Penalties under s. 812.0145, F.S., for Theft When Victim Is 65 Years of Age or Older

Section 812.0145(2), F.S., reclassifies the degree of theft when the victim of the theft is a person 65 years of age or older.⁴⁴ Reclassification is based on the value of the funds, assets, or property involved in the theft:

- Level 7 first degree felony (value is \$50,000 or more);
- Level 5 second degree felony (value is 10,000 or more, but less than \$50,000); or
- Level 3 third degree felony (value is \$300 or more, but less than \$10,000).

Additionally, a person who is convicted of theft of more than \$1,000 from a person 65 years of age or older must be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work are in addition to any fine or sentence which may be imposed and not in lieu thereof.⁴⁵

⁴² Section 895.02(8), F.S.

⁴³ Section 895.05(2), F.S.

⁴⁴ The perpetrator must know or have reason to believe that the victim was 65 years of age or older. Section 812.0145(2), F.S.

⁴⁵ Section 812.0145(1), F.S.

Criminal Use of Personal Information of Persons 60 Years of Age or Older

Section 817.568, F.S., punishes criminal use of personal identification information (“identity theft”). Any person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is 60 years of age or older without first obtaining the consent of that individual or of his or her legal guardian commits a second degree felony.⁴⁶

Honest Service Fraud

The bill, in part, punishes a person for depriving, endeavoring to deprive, or conspiring with another to deprive, with the intent to defraud and by means of bribery or kickbacks, a person 65 years of age or older of his or her *intangible right to honest services* provided by an individual who has a legal or fiduciary relationship with such person.⁴⁷

Federal laws punishing mail and wire fraud use the term “scheme or artifice to defraud,”⁴⁸ which 18 U.S.C. s. 1346 defines to include “a scheme or artifice to deprive another of the intangible right of honest services.” “Intangible rights” are not defined in federal law. 18 U.S.C. s. 1346, which applies to both public officials and private employees, abrogates the U.S. Supreme Court’s holding in *McNally v. United States*⁴⁹ “that the mail fraud statute was ‘limited in scope’ to *only* the ‘protection of tangible property rights.’”⁵⁰ The statute codifies “the understanding of some of the lower federal courts that the mail and wire fraud statutes extend to conduct that deprives a person or group of the right to have another act in accordance with some externally imposed duty or obligation, regardless of whether the victim so deprived has suffered or would suffer a pecuniary harm.”⁵¹ In a subsequent case, *Skilling v. United States*,⁵² the U.S. Supreme Court limited prosecutions of mail and wire fraud under an honest services theory to “those who, in violation of a fiduciary duty,⁵³ participate in bribery or kickback schemes.”⁵⁴ This “limiting principle” continues to be applied to honest service fraud.⁵⁵

III. Effect of Proposed Changes:

The bill creates s. 817.5695, F.S., which punishes exploitation of a person 65 years of age or older⁵⁶ by:

⁴⁶ Section 817.568(6), F.S.

⁴⁷ Emphasis provided by staff. See “Effect of Proposed Changes” section of this analysis for further details.

⁴⁸ See 18 U.S.C. s. 1341 (mail fraud) and 18 U.S.C. s. 1343 (wire fraud).

⁴⁹ 483 U.S. 350 (1987). *Bribery, Kickbacks, and Self-Dealing: A Overview of Honest Services Fraud and Issues for Congress*, R5479 (May 18, 2020), at p. 2, Congressional Research Service, available at

<https://sgp.fas.org/crs/misc/R45479.pdf> (last visited on Feb. 28, 2023). This report is further referenced as “CRS Report.”

⁵⁰ CRS Report at p. 2, n. 12, citing *McNally*, 438 U.S. at 360. Emphasis provided by author.

⁵¹ CRS Report at p. 2.

⁵² 561 U.S. 358 (2010).

⁵³ Some of the fiduciary relationships that support an honest-services fraud prosecution include attorney-client, doctor-patient, and stockbroker-customer. CRS Report at p. 17, n. 147, quoting and citing *United States v. Scanlon*, 753 F. Supp. 23, 25 (D.D.C. 2010) and *United States v. Evans*, No. 2:14-CR-00113, 2015 WL 1808904, at *5 (S.D.W. Va. Apr. 21, 2015).

⁵⁴ CRS Report at p. 2.

⁵⁵ *Id.*

⁵⁶ The bill does not appear to require that the perpetrator know or have reason to believe the victim is 65 years of age or older.

- Obtaining or using,⁵⁷ endeavoring⁵⁸ to obtain or use, or conspiring with another to obtain or use, through deception⁵⁹ or intimidation,⁶⁰ the property⁶¹ of a person 65 years of age or older with the intent to temporarily or permanently:
 - Deprive that person of the use, benefit, or possession of the property; or
 - Benefit someone other than the property owner;
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older by violating his or her intent as expressed in a will, trust instrument, or other testamentary devise and the individual has a fiduciary duty to the person 65 years of age or older; or
- Depriving, endeavoring to deprive, or conspiring with another to deprive, with the intent to defraud and by means of bribery⁶² or kickbacks,⁶³ a person 65 years of age or older of his or her intangible right to honest services⁶⁴ provided by an individual who has a legal or fiduciary relationship⁶⁵ with such person.

The bill specifies the felony degree of violations based on value⁶⁶ of property, etc., involved in the exploitation and amends s. 921.0022, F.S., to rank the felonies in the Code offense severity level ranking chart. If the funds, assets, or property involved in the exploitation are valued at:

- \$50,000 or more, the offender commits a level 7⁶⁷ first degree felony.
- \$10,000 or more, but less than \$50,000, the offender commits a level 5 second degree felony.
- Less than \$10,000, the offender commits a level 3 third degree felony.

⁵⁷ The bill uses the same definition of “obtains or uses” that is found in the theft chapter. *See* s. 812.012(3), F.S.

⁵⁸ “Endeavor” means to attempt or to try.

⁵⁹ “Deception” means misrepresenting or concealing a material fact relating to: (1) services rendered, disposition of property, or use of property, when such services or property are intended to benefit a person 65 years of age or older; (2) terms of a contract, agreement, trust, will, or testament entered into with a person 65 years of age or older; or (3) an existing or preexisting condition of any property involved in a contract, agreement, trust, will, or testament entered into with a person 65 years of age or older. It also means using any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a person 65 years of age or older to enter into a contract, agreement, trust, will, or testament.

⁶⁰ “Intimidation” means the communication by word or act to a person 65 years of age or older that the person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence.

⁶¹ The bill uses the same definition of “property” that is found in the theft chapter. *See* s. 812.012(4), F.S.

⁶² A “bribe” is any money or anything of value which is provided, directly or indirectly, to a person who has a legal or fiduciary relationship with a person 65 years of age or older, for the purpose of improperly obtaining or rewarding favorable treatment from the person who has the legal or fiduciary relationship in connection with his or her work for the person 65 years of age or older.

⁶³ A “kickback” is money, credit, a fee, a commission, a gift, a gratuity or other compensation, or anything of value which is provided to a person in exchange for preferential treatment for the receipt of goods or services.

⁶⁴ The bill uses the same definition of “services” that is found in the theft chapter. *See* s. 812.012(6), F.S. Similar to federal law, the bill does not define “intangible right to honorable services.” *See* discussion of honest services fraud in the “Present Situation” section of this analysis.

⁶⁵ “Fiduciary relationship” includes, but is not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator. As indicated, this definition is not an exhaustive list.

⁶⁶ The definition of “value” is almost identical to the definition of that term in the theft chapter. *See* s. 812.012(10), F.S., and allows the amounts of value of separate properties involved in exploitation committed pursuant to one scheme or course of conduct, whether the exploitation involves the same person or several persons, to be aggregated in determining the degree of the offense. *See* s. 812.012(10)(c), F.S.

⁶⁷ The rankings of theft from a person 65 years of age or older under s. 812.0145, F.S., are identical to the rankings of offenses under s. 817.5695, F.S., except that the first degree felony in s. 812.0145, F.S., is specifically ranked in level 7 of the Code offense severity level ranking chart (s. 921.0022, F.S.) while the first degree felony in s. 817.5695, F.S., is not ranked in the chart but defaults to a level 7 ranking under s. 921.0023, F.S.

The penalties and rankings are identical to those applicable to theft from a person 65 years of age or older under s. 812.0145, F.S.⁶⁸

In a prosecution for a violation of s. 817.5695, F.S., the state may move the court to advance a trial on the court's docket and the court must consider the victim's age and health in determining whether to advance the trial.⁶⁹

A person 65 years of age or older who is in imminent danger of being exploited may petition for an injunction for protection under s. 825.1035, F.S., which currently applies to a vulnerable adult in imminent danger of being "exploited" (i.e., subject to exploitation as defined in s. 825.103(1), F.S.).⁷⁰

The bill amends s. 775.15, F.S., to provide that prosecution for a felony violation of s. 817.5695, F.S., s. 825.102, F.S. (abuse of an elderly person or disabled adult), or s. 825.103, F.S. (exploitation of an elderly person or disabled adult) must be commenced within five years after the crime is committed, but if fraud or breach of fiduciary duty is a material element of the offense, the offense may be prosecuted within five years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense. This change will provide additional time for prosecution of elder abuse and exploitation.⁷¹

The bill take effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶⁸ See ss. 812.0145(2) and 921.0022(3)(c), (e), and (g), F.S.

⁶⁹ This provision is almost identical to s. 825.106, F.S., which authorizes the state to move the court to advance the trial on the court's docket in a criminal action in which an elderly person or disabled adult is the victim. The court must consider the age and the health of the victim in determining whether to advance the trial on the docket.

⁷⁰ See s. 825.101(6), F.S.

⁷¹ See "Present Situation" section of this analysis for a discussion of time limitations under s. 775.15, F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).⁷²

The bill creates a level 7 first degree felony, a level 5 second degree felony, and a level 3 third degree felony. The EDR provides the following information relevant to these felonies and its estimate:

In FY 18-19, the incarceration rate for a Level 3, 3rd degree felony was 9.5%, and in FY 19-20 the incarceration rate was 8.8%. In FY 20-21, the incarceration rate for a Level 3, 3rd degree felony was 8.7%, and in FY 21-22 the incarceration rate was 9.6%. In FY 18-19, the incarceration rate for a Level 5, 2nd degree felony was 35.3%, and in FY 19-20 the incarceration rate was 32.6%. In FY 20-21, the incarceration rate for a Level 5, 2nd degree felony was 32.7%, and in FY 21-22 the incarceration rate was 35.7%. In FY 18-19, the incarceration rate for a Level 7, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 7, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.

Per [Department of Corrections or "DOC"] ..., in FY 18-19, there were 21 new commitments to prison for felonies listed under s. 825.103, F.S., and 18 new commitments in FY 19-20. There were 12 in FY 20-21, and 14 in FY 21-22. It is not known how the newly created felonies under s. 817.5695, F.S., will impact

⁷² SB 232 – *Exploitation of Vulnerable Persons*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

prison beds, but commitments are low under the current language for exploitation of the elderly or disabled adults.

Per DOC, in FY 18-19, there were 14 new commitments to prison for felonies listed under s. 825.102, F.S., and 11 new commitments in FY 19-20. There were 9 in FY 20-21, and 20 in FY 21-22. It is not known how many additional commitments would be included with the expansion of the time period to prosecute for s. 825.102, F.S., s. 825.103, F.S., or the newly added s. 817.5695[,] F.S.

Per DOC, there has been one new commitment for a violation of s. 825.1036, F.S.[,] in the last four fiscal years.⁷³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.15 and 921.0022.

This bill creates section 817.5695 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷³ *Id.*



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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 123 - 308

and insert:

2. Benefit someone other than the property owner;

(b) Obtains or uses, endeavors to obtain or use, or
conspires with another to obtain or use, through deception or
intimidation, the property of a person 65 years of age or older
through the intentional modification, alteration, or fraudulent
creation of a plan of distribution or disbursement expressed in



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a will, trust instrument, or other testamentary devise of the person 65 years of age or older; or

(c) Deprives, endeavors to deprive, or conspires with another to deprive, with the intent to defraud and by means of bribery or kickbacks, a person 65 years of age or older of his or her intangible right to honest services provided by an individual who has a legal or fiduciary relationship with such person.

(3) A person who violates this section commits:

(a) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or property involved in the exploitation of a person 65 years of age or older is valued at \$50,000 or more.

(b) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or property involved in the exploitation of a person 65 years of age or older is valued at \$10,000 or more, but less than \$50,000.

(c) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or property involved in the exploitation of a person 65 years of age or older is valued at less than \$10,000.

(4) It does not constitute a defense to a prosecution for any violation of this section that the accused did not know the age of the victim.

(5) In a criminal action resulting from a violation of this section, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket.



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The motion may be filed and served with the information or charges at any time thereafter.

(6) Notwithstanding s. 825.1035(2), a person 65 years of age or older who is in imminent danger of being exploited may petition for an injunction for protection as provided under s. 825.1035. A violation of such injunction shall be handled in the same manner, and such violation shall have the same penalties, as provided in s. 825.1036.

Section 2. Subsection (10) of section 775.15, Florida Statutes, is amended to read:

775.15 Time limitations; general time limitations; exceptions.—

(10) (a) A prosecution for a felony violation of s. 817.5695, s. 825.102, or s. 825.103 must be commenced within 5 years after it is committed.

(b) If the period prescribed in paragraph (a) has expired, a prosecution may nevertheless be commenced for any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 5 years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense.

Section 3. Subsection (1) of section 825.1035, Florida Statutes, is amended to read:

825.1035 Injunction for protection against exploitation of a vulnerable adult.—

(1) INJUNCTION CREATED.—There is created a cause of action for an injunction for protection against exploitation of a vulnerable adult. As used in this section, and in addition to



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the definitions provided in this chapter, exploitation of a vulnerable adult includes a person 65 years of age or older who is or may be subject to exploitation as described in s. 817.5695.

Section 4. Subsection (1) of section 825.1036, Florida Statutes, is amended to read:

825.1036 Violation of an injunction for protection against exploitation of a vulnerable adult.—

(1) In the event of a violation of an injunction for protection against exploitation of a vulnerable adult when the person who violated such injunction has not been arrested, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk of the circuit court shall assist the petitioner in the preparation of an affidavit in support of the violation or direct the petitioner to the office operated by the court within the circuit which has been designated by the chief judge of the judicial circuit as the central intake point for injunction violations and where the petitioner can receive assistance in the preparation of the affidavit in support of the violation. As used in this section, and in addition to the definitions provided in this chapter, exploitation of a vulnerable adult includes a person 65 years of age or older who is or may be subject to exploitation as described in s. 817.5695.

Section 5. Paragraphs (d) and (f) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART



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98	(d) LEVEL 4		
99			
	Florida	Felony	
	Statute	Degree	Description
100			
	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
101			
	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
102			
	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
103			
	517.07 (1)	3rd	Failure to register securities.



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104	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
105	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
106	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
107	784.075	3rd	Battery on detention or commitment facility staff.
108	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
109	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
110	784.081 (3)	3rd	Battery on specified official or employee.



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111	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
112	784.083 (3)	3rd	Battery on code inspector.
113	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
114	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
115	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
116	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child



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			at custody hearing or delivering to designated person.
117	787.07	3rd	Human smuggling.
118	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
119	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
120	790.115 (2) (c)	3rd	Possessing firearm on school property.
121	794.051 (1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
122	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
123	806.135	2nd	Destroying or demolishing a memorial



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124			or historic property.
	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
125			
	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
126			
	810.06	3rd	Burglary; possession of tools.
127			
	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
128			
	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
129			
	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree; specified items.
130			



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131	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
132	817.505 (4) (a)	3rd	Patient brokering.
133	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
134	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
135	<u>817.5695 (3) (c)</u>	<u>3rd</u>	<u>Exploitation of person 65 years of age or older, value less than \$10,000.</u>
136	817.625 (2) (a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
	817.625 (2) (c)	3rd	Possess, sell, or deliver skimming



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137			device.
	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
138			
	836.14 (2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
139			
	836.14 (3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
140			
	837.02 (1)	3rd	Perjury in official proceedings.
141			
	837.021 (1)	3rd	Make contradictory statements in official proceedings.
142			
	838.022	3rd	Official misconduct.
143			



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144	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
145	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
146	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
147	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
148	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
	847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less



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			than 18 years.
149	870.01 (3)	2nd	Aggravated rioting.
150	870.01 (5)	2nd	Aggravated inciting a riot.
151	874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
152	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03 (1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 5. drugs).
153	914.14 (2)	3rd	Witnesses accepting bribes.
154	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
155	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
156			



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157	916.1085 (2) (c) 1.	3rd	Introduction of specified contraband into certain DCF facilities.
158	918.12	3rd	Tampering with jurors.
159	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
160	944.47 (1) (a) 6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
	951.22 (1) (h) , (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.



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161

162

163 (f) LEVEL 6

164

Florida
Statute

Felony
Degree

Description

165

316.027 (2) (b)

2nd

Leaving the scene of a
crash involving
serious bodily injury.

166

316.193 (2) (b)

3rd

Felony DUI, 4th or
subsequent conviction.

167

400.9935 (4) (c)

2nd

Operating a clinic, or
offering services
requiring licensure,
without a license.

168

499.0051 (2)

2nd

Knowing forgery of
transaction history,
transaction
information, or
transaction statement.

169

499.0051 (3)

2nd

Knowing purchase or
receipt of
prescription drug from
unauthorized person.



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170	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
171	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
172	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
173	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
174	784.041	3rd	Felony battery; domestic battery by strangulation.
175	784.048 (3)	3rd	Aggravated stalking; credible threat.
176	784.048 (5)	3rd	Aggravated stalking of person under 16.
177	784.07 (2) (c)	2nd	Aggravated assault on



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178			law enforcement officer.
	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
179			
	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
180			
	784.081 (2)	2nd	Aggravated assault on specified official or employee.
181			
	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
182			
	784.083 (2)	2nd	Aggravated assault on code inspector.
183			
	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
184			



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185	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
186	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
187	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
188	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
189	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.



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190	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
191	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
192	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
193	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
194	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
195	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.



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196	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
197	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
198	812.015 (9) (a)	2nd	Retail theft; property stolen \$750 or more; second or subsequent conviction.
199	812.015 (9) (b)	2nd	Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
200	812.015 (9) (d)	2nd	Retail theft; multiple thefts within specified period.
	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-



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201			arm robbery).
	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
202			
	817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
203			
	817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
204			
	<u>817.5695(3)(b)</u>	<u>2nd</u>	<u>Exploitation of person 65 years of age or older, value more than \$10,000 but less than \$50,000.</u>
205			
	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
206			
	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.



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207	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
208	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
209	827.03 (2) (c)	3rd	Abuse of a child.
210	827.03 (2) (d)	3rd	Neglect of a child.
211	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
212	828.126 (3)	3rd	Sexual activities involving animals.
213	836.05	2nd	Threats; extortion.
214	836.10	2nd	Written or electronic threats to kill, do



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215			bodily injury, or conduct a mass shooting or an act of terrorism.
	843.12	3rd	Aids or assists person to escape.
216			
	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
217			
	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
218			
	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
219			
	914.23	2nd	Retaliation against a witness, victim, or



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220			informant, with bodily injury.
	918.13 (2) (b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
221			
	944.35 (3) (a) 2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
222			
	944.40	2nd	Escapes.
223			
	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
224			
	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
225			



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951.22(1)(i) 3rd Firearm or weapon
introduced into county
detention facility.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 7 - 21
and insert:
act; specifying that not knowing the age of a victim
is not a defense to such crime; providing
circumstances under which the trial for a criminal
action arising from specified violations may be
advanced on the docket; authorizing persons who are in
imminent danger of exploitation to petition for an
injunction for protection; specifying applicable
penalties for violations of any such injunction;
amending s. 775.15, F.S.; providing time limitations
for commencing prosecution for violations of the act;
providing an exception for the time limitations for
commencing prosecution for certain felony violations
involving elderly persons or disabled adults if
certain conditions are met; amending ss. 825.1035 and
825.1036, F.S.; specifying that certain acts are
included in exploitation of a vulnerable adult;
amending s. 921.0022, F.S.; ranking certain offenses
created by this act on the offense severity ranking
chart of the

By Senator Garcia

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A bill to be entitled

An act relating to the exploitation of vulnerable persons; creating s. 817.5695, F.S.; defining terms; specifying conditions under which a person commits exploitation of a person 65 years of age or older; providing criminal penalties for violations of the act; providing circumstances under which the trial for a criminal action arising from specified violations may be advanced on the docket; authorizing persons who are in imminent danger of exploitation to petition for an injunction for protection; specifying applicable penalties for violations of any such injunction; amending s. 775.15, F.S.; providing time limitations for commencing prosecution for violations of the act; providing an exception for the time limitations for commencing prosecution for certain felony violations involving elderly persons or disabled adults if certain conditions are met; amending s. 921.0022, F.S.; ranking specified offenses created by the act involving the exploitation of a person 65 years of age or older on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 817.5695, Florida Statutes, is created to read:

817.5695 Exploitation of a person 65 years of age or older.-

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(1) As used in this section, the term:

(a) "Bribe" means any money or anything of value which is provided, directly or indirectly, to a person who has a legal or fiduciary relationship with a person 65 years of age or older, for the purpose of improperly obtaining or rewarding favorable treatment from the person who has the legal or fiduciary relationship in connection with his or her work for the person 65 years of age or older.

(b) "Deception" means:

1. Misrepresenting or concealing a material fact relating to:

a. Services rendered, disposition of property, or use of property, when such services or property are intended to benefit a person 65 years of age or older;

b. Terms of a contract, agreement, trust, will, or testament entered into with a person 65 years of age or older; or

c. An existing or preexisting condition of any property involved in a contract, agreement, trust, will, or testament entered into with a person 65 years of age or older; or

2. Using any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a person 65 years of age or older to enter into a contract, agreement, trust, will, or testament.

(c) "Endeavor" means to attempt or to try.

(d) "Fiduciary relationship" includes, but is not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator.

(e) "Intimidation" means the communication by word or act

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to a person 65 years of age or older that the person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence.

(f) "Kickback" means money, credit, a fee, a commission, a gift, a gratuity or other compensation, or anything of value which is provided to a person in exchange for preferential treatment for the receipt of goods or services.

(g) "Obtains or uses" means any manner of:

1. Taking or exercising control over property; or

2. Making any use, disposition, or transfer of property.

(h) "Property" means anything of value and includes, but is not limited to:

1. Real property, including things growing on, affixed to, or found in land.

2. Tangible or intangible personal property, including intellectual property, rights, privileges, interests, and claims.

3. Services.

(i) "Services" means anything of value resulting from a person's physical or mental labor or skill, or from the use, possession, or presence of property, and includes, but is not limited to:

1. Repairs or improvements to property;

2. Professional services;

3. Private, public, or governmental communication, transportation, power, water, or sanitation services;

4. Lodging accommodations; or

5. Admissions to places of exhibition or entertainment.

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(j) "Value" means value determined according to any of the following:

1. The market value of the property at the time and place of the offense, or, if the market value cannot be satisfactorily ascertained, the value is the cost of replacing the property within a reasonable time after the commission of the offense;

2. In the case of a written instrument, such as a check, draft, or promissory note, which does not have a readily ascertainable market value, the value is the amount due or collectible. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is the greatest amount of economic loss that the owner of the instrument might reasonably suffer by the diminishment or loss of the instrument;

3. The value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner suffered by reason of losing advantage over those who do not know of or use the trade secret; or

4. If the value of the property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$100.

Amounts of value of separate properties involved in exploitation committed pursuant to one scheme or course of conduct, whether the exploitation involves the same person or several persons, may be aggregated in determining the degree of the offense.

(2) A person commits exploitation of a person 65 years of age or older if he or she:

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(a) Obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older, with the intent to temporarily or permanently:

1. Deprive that person of the use, benefit, or possession of the property; or

2. Benefit someone other than the property owner.

(b) Obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older by violating his or her intent as expressed in a will, trust instrument, or other testamentary devise and the individual has a fiduciary duty to the person 65 years of age or older; or

(c) Deprives, endeavors to deprive, or conspires with another to deprive, with the intent to defraud and by means of bribery or kickbacks, a person 65 years of age or older of his or her intangible right to honest services provided by an individual who has a legal or fiduciary relationship with such person.

(3) A person who violates this section commits:

(a) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or property involved in the exploitation of a person 65 years of age or older is valued at \$50,000 or more.

(b) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or property involved in the exploitation of a person 65 years of age or older is valued at \$10,000 or more, but less than \$50,000.

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(c) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or property involved in the exploitation of a person 65 years of age or older is valued at less than \$10,000.

(4) In a criminal action resulting from a violation of this section, the state may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the victim, may advance the trial on the docket. The motion may be filed and served with the information or charges at any time thereafter.

(5) Notwithstanding s. 825.1035(2), a person 65 years of age or older who is in imminent danger of being exploited may petition for an injunction for protection as provided under s. 825.1035. A violation of such injunction shall be handled in the same manner, and such violation shall have the same penalties, as provided in s. 825.1036.

Section 2. Subsection (10) of section 775.15, Florida Statutes, is amended to read:

775.15 Time limitations; general time limitations; exceptions.—

(10)(a) A prosecution for a felony violation of s. 817.5695, s. 825.102, or s. 825.103 must be commenced within 5 years after it is committed.

(b) If the period prescribed in paragraph (a) has expired, a prosecution may nevertheless be commenced for any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 5 years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to

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the offense.

Section 3. Paragraphs (c) and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with

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identification number plate removed.

319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

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194	36-00641A-23	2023232__	
	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
195	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
196	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
197	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine

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			Turtle Protection Act.
198	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
199	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
200	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
201	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
202	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
203	624.401(4)(b)1.	3rd	Transacting insurance

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			without a certificate of	
			authority; premium	
			collected less than	
204			\$20,000.	
	626.902(1) (a) &	3rd	Representing an	
205	(b)		unauthorized insurer.	
	697.08	3rd	Equity skimming.	
206				
	790.15(3)	3rd	Person directs another to	
			discharge firearm from a	
207			vehicle.	
	806.10(1)	3rd	Maliciously injure,	
			destroy, or interfere with	
208			vehicles or equipment used	
			in firefighting.	
	806.10(2)	3rd	Interferes with or assaults	
			firefighter in performance	
209			of duty.	
	810.09(2) (c)	3rd	Trespass on property other	
			than structure or	
			conveyance armed with	
210			firearm or dangerous	
			weapon.	

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	812.014(2) (c)2.	3rd	Grand theft; \$5,000 or more	
			but less than \$10,000.	
211				
	812.0145(2) (c)	3rd	Theft from person 65 years	
			of age or older; \$300 or	
212			more but less than \$10,000.	
	812.015(8) (b)	3rd	Retail theft with intent to	
			sell; conspires with	
			others.	
213				
	812.081(2)	3rd	Theft of a trade secret.	
214				
	815.04(4) (b)	2nd	Computer offense devised to	
			defraud or obtain property.	
215				
	817.034(4) (a)3.	3rd	Engages in scheme to	
			defraud (Florida	
			Communications Fraud Act),	
			property valued at less	
			than \$20,000.	
216				
	817.233	3rd	Burning to defraud insurer.	
217				
	817.234	3rd	Unlawful solicitation of	
	(8) (b) & (c)		persons involved in motor	
			vehicle accidents.	
218				
	817.234(11) (a)	3rd	Insurance fraud; property	

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	36-00641A-23		2023232__	
			value less than \$20,000.	
219	817.236	3rd	Filing a false motor vehicle insurance application.	
220	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.	
221	817.413(2)	3rd	Sale of used goods of \$1,000 or more as new.	
222	817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.	
223	<u>817.5695(3)(c)</u>	<u>3rd</u>	<u>Exploiting a person 65 years of age or older and funds, assets, or property is valued at less than \$10,000.</u>	
224	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a	

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	36-00641A-23		2023232__	
			counterfeit payment instrument with intent to defraud.	
225	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.	
226	836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.	
227	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.	
228	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.	
229	860.15(3)	3rd	Overcharging for repairs and parts.	
230	870.01(2)	3rd	Riot.	
231	870.01(4)	3rd	Inciting a riot.	
232	893.13(1)(a)2.	3rd	Sell, manufacture, or	

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			deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
233	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
234	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
235	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other

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	36-00641A-23		2023232__
			controlled substances.
236	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
237	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
238	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
239	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
240	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
241	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of

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	36-00641A-23		2023232__	
				an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
242	893.13(8)(a)2.	3rd		Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
243	893.13(8)(a)3.	3rd		Knowingly write a prescription for a controlled substance for a fictitious person.
244	893.13(8)(a)4.	3rd		Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
245				

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246	918.13 (1)	3rd	Tampering with or fabricating physical evidence.
247	944.47 (1) (a) 1. & 2.	3rd	Introduce contraband to correctional facility.
248	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
249	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
250	(e) LEVEL 5		
251	Florida	Felony	
252	Statute	Degree	Description
253	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.

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	36-00641A-23		2023232__
254	316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
255	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
256	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
257	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates;

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			making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
258	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
259	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
260	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
261	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.

262	36-00641A-23	2023232__	
	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
263	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
264	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
265	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
266	790.01(2)	3rd	Carrying a concealed firearm.
267	790.162	2nd	Threat to throw or

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	36-00641A-23	2023232__	
			discharge destructive device.
268	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
269	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
270	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
271	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
272	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
273	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
274			

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	36-00641A-23		2023232__
	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
275			
	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
276			
	812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
277			
	812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
278			
	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
279			
	812.081(3)	2nd	Trafficking in trade secrets.
280			
	812.131(2)(b)	3rd	Robbery by sudden snatching.
281			
	812.16(2)	3rd	Owning, operating, or

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	36-00641A-23		2023232__
			conducting a chop shop.
282			
	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
283			
	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
284			
	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
285			
	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification

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information of 10 or more persons.

286 817.5695 (3) (b) 2nd Exploiting a person 65 years of age or older and funds, assets, or property is valued at \$10,000 or more, but less than \$50,000.

287 817.611 (2) (a) 2nd Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

288 817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

289 825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

290 827.071 (4) 2nd Possess with intent to promote any photographic

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material, motion picture, etc., which includes child pornography.

291 827.071 (5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.

292 828.12 (2) 3rd Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

293 836.14 (4) 2nd Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.

294 839.13 (2) (b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

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295	36-00641A-23	2023232__	
	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
296	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
297	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
298	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
299	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
300	874.05 (2) (a)	2nd	Encouraging or recruiting person under

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	36-00641A-23	2023232__	
			13 years of age to join a criminal gang.
301	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5. drugs).
302	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
303	893.13 (1) (d) 1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a),

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(1) (b), (1) (d), (2) (a),
(2) (b), or (2) (c) 5.
drugs) within 1,000 feet
of university.

304

893.13(1)(e)2.

2nd

Sell, manufacture, or
deliver cannabis or
other drug prohibited
under s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10.,
(3), or (4) within 1,000
feet of property used
for religious services
or a specified business
site.

305

893.13(1)(f)1.

1st

Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1)(a),
(1) (b), (1) (d), or
(2) (a), (2) (b), or
(2) (c) 5. drugs) within
1,000 feet of public
housing facility.

306

893.13(4)(b)

2nd

Use or hire of minor;

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deliver to minor other
controlled substance.

307

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

308

309

Section 4. This act shall take effect October 1, 2023.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

SB 232 – Exploitation of Vulnerable Persons

This bill creates s. 817.5695, F.S., providing definitions for multiple terms and adding new felonies for the “exploitation of a person 65 years of age or older.” The offense is defined as follows: **“A person commits exploitation of a person 65 years of age or older if he or she...obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older, with the intent to temporarily or permanently...deprive that person of the use, benefit, or possession of the property...or...benefit someone other than the property owner...obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use, through deception or intimidation, the property of a person 65 years of age or older by violating his or her intent as expressed in a will, trust instrument, or other testamentary devise and the individual has a fiduciary duty to the person 65 years of age or older...or...deprives, endeavors to deprive, or conspires with another to deprive, with the intent to defraud and by means of bribery or kickbacks, a person 65 years of age or older of his or her intangible right to honest services provided by an individual who has a legal or fiduciary relationship with such person.”** Monetary thresholds are added that determine the felony level and degree for this newly created offense:

- \$50,000 or more – unranked, 1st degree felony (Level 7 by default)
- \$10,000 or more, less than \$50,000 – Level 5, 2nd degree felony
- less than \$10,000 – Level 3, 3rd degree felony

This could expand the offender pool that already exists under s. 825.103, F.S., for “exploitation of an elderly person or disabled adult,” which includes the following penalties:

- \$100,000 or more – Level 8, 1st degree felony
- \$20,000 or more, less than \$100,000 – Level 7, 2nd degree felony
- less than \$20,000 – Level 6, 3rd degree felony

This expanded group of offenders would also impact the Level 1, 3rd degree felony under s. 825.1036, F.S. for “a person who has two or more prior convictions for violation of an injunction or foreign protection order against the same victim, and who subsequently commits a violation of any injunction or foreign protection order against the same victim.”

Finally, this bill amends s. 775.15, F.S., adding s. 817.5695, F.S. to the list of statutes where a prosecution must be commenced within 5 years of it being committed. However, the following language is also added: **“If the period prescribed...has expired, a prosecution may nevertheless be commenced for any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 5 years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the**

offense.” This new language would impact s. 825.102, F.S., s. 825.103, F.S., and s. 817.5695, F.S. by expanding the time period for prosecution due to the time starting when the prior offense has been discovered.

In FY 18-19, the incarceration rate for a Level 3, 3rd degree felony was 9.5%, and in FY 19-20 the incarceration rate was 8.8%. In FY 20-21, the incarceration rate for a Level 3, 3rd degree felony was 8.7%, and in FY 21-22 the incarceration rate was 9.6%. In FY 18-19, the incarceration rate for a Level 5, 2nd degree felony was 35.3%, and in FY 19-20 the incarceration rate was 32.6%. In FY 20-21, the incarceration rate for a Level 5, 2nd degree felony was 32.7%, and in FY 21-22 the incarceration rate was 35.7%. In FY 18-19, the incarceration rate for a Level 7, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 7, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.

Per DOC, in FY 18-19, there were 21 new commitments to prison for felonies listed under s. 825.103, F.S., and 18 new commitments in FY 19-20. There were 12 in FY 20-21, and 14 in FY 21-22. It is not known how the newly created felonies under s. 817.5695, F.S. will impact prison beds, but commitments are low under the current language for exploitation of the elderly or disabled adults.

Per DOC, in FY 18-19, there were 14 new commitments to prison for felonies listed under s. 825.102, F.S., and 11 new commitments in FY 19-20. There were 9 in FY 20-21, and 20 in FY 21-22. It is not known how many additional commitments would be included with the expansion of the time period to prosecute for s. 825.102, F.S., s. 825.103, F.S., or the newly added s. 817.5695. FS.

Per DOC, there has been one new commitment for a violation of s. 825.1036, F.S. in the last four fiscal years.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 310

INTRODUCER: Senator Collins

SUBJECT: Federal Law Enforcement Agency Records

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Pre-meeting
2. _____	_____	GO	_____
3. _____	_____	RC	_____

I. Summary:

SB 310 requires a federal law enforcement agency that is not subject to the federal Freedom of Information Act and that has a physical office located in this state to comply with the public records requirements of this state.

The bill should not have a state fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.² The Public Records Act states that:

[i]t is the policy of this state that *all state, county, and municipal records* are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.³

¹ FLA. CONST., art. I, s. 24(a).

² Public records laws are found throughout the Florida Statutes.

³ Section 119.01(1), F.S. Emphasis provided by staff.

For purposes of ch. 119, F.S., an “agency” is *any state, county, district, authority, or municipal officer, or other separate unit of government created or established by law*, and includes the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.⁴

The Public Records Act contains general exemptions that apply across agencies. Agency or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any *state or local government public record* at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.

Public Records Exemptions in Chapter 119, F.S., Relevant to Federal Law Enforcement Records or Information

Section 943.053(2), F.S., restricts “the dissemination of criminal history information obtained from federal criminal justice information systems and other states by stating that such information shall not be disseminated in a manner inconsistent with the laws, regulations, or rules of the originating agency.”⁸

⁴ Section 119.011(2), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also*, *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S. A “custodian of public records” means the elected or appointed, state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee. Section 119.011(5), F.S.

⁸ *Public Records, A Guide for Law Enforcement Agencies* (2021 ed.), p. 34 and n. 115, The Office of Attorney General Ashley Moody, available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-C79JHP/\\$file/LawEnforcementGuide.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-C79JHP/$file/LawEnforcementGuide.pdf) (last visited on March 8, 2023). At footnote 115, the text notes: “Thus, criminal history record information shared with a public school district by the Federal Bureau of Investigation retains its character as a federal record to which only limited access is provided by federal law and is not subject to public inspection. AGO 99-01.” *Id.*

“Pursuant to s. 119.071(2)(b), F.S., criminal intelligence or investigative information received by a Florida criminal justice agency from a non-Florida criminal justice agency on a confidential or similarly restricted basis is exempt from disclosure.”⁹

Federal Records – Custody and Access

Congress has authorized federal departments to promulgate “regulations for the custody, use, and preservation” of its records.¹⁰ Congress has also authorized federal agencies to “make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.”¹¹

“The [Freedom of Information Act or] FOIA¹² and Privacy Act¹³ are long-established mechanisms for individuals to seek access to [federal] government records.”¹⁴ The acts serve different purposes but are “often read in tandem.”¹⁵ “[T]he FOIA is designed to increase the public’s access to governmental information[.]”¹⁶ “Federal agencies are required to disclose any information requested under the FOIA unless it falls under one of nine exemptions which protect interests such as personal privacy, national security, and law enforcement.”¹⁷

The law enforcement exemption to the FOIA prevents disclosure of:

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential

⁹ *Public Records, A Guide for Law Enforcement Agencies*, *supra*, at p. 20 and n. 69. At footnote 69, the text notes: “See *State v. Wright*, 803 So. 2d 793 (Fla. 4th DCA 2001) (state not required to disclose criminal histories of civilian witnesses which it obtained from the Federal Bureau of Investigation). The purpose of this statute is to ‘encourage cooperation between non-state and state criminal justice agencies.’ *State v. Buenoano*, 707 So. 2d 714, 717 (Fla. 1998).”

¹⁰ 5 U.S.C. s. 301.

¹¹ 44 U.S.C. s. 3101.

¹² 5 U.S.C. [s.] 552.

¹³ 5 U.S.C. [s.] 552a.

¹⁴ *OIP Guidance: The Interface Between the FOIA and Privacy Act Under the FOIA* (Sept. 30, 2022), U.S. Department of Justice, available at <https://www.justice.gov/oip/oip-guidance-interface-between-foia-and-privacy-act> (last visited on March 8, 2023) (citations omitted).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *What is FOIA?*, U.S. Department of Justice, available at <https://www.foia.gov/about.html> (last visited on March 8, 2023). For a list of the exemptions, see 5 U.S.C. [s.] 552, and *Freedom of Information Act: Frequently Asked Questions (FAQ)*, U.S. Department of Justice, available at <https://www.foia.gov/faq.html> (last visited on March 8, 2023).

source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.¹⁸

“The Privacy Act is designed to foster a relationship of trust between an individual and an agency, by requiring that the agency’s collection, use, and maintenance of records pertaining to individuals must be compatible with the purposes for which the record was collected or created, or otherwise be expressly permitted under the Act.”¹⁹ “The general rule under the Privacy Act is that an agency cannot disclose a record contained in a system of records²⁰ unless the individual to whom the record pertains gives prior written consent to the disclosure. There are twelve exceptions to this general rule.”²¹ None of the exceptions apply to a request for records pursuant to a state public records law.

III. Effect of Proposed Changes:

The bill creates s. 119.03, F.S., which requires a federal law enforcement agency that is not subject to the FOIA and that has a physical office located in this state to comply with the public records requirements of this state. Conforming changes are made to s. 119.01, F.S. (general state policy on public records) and the definitions of “agency” and “custodian of records” in s. 119.011(2) and (5), F.S.

It is unclear which federal records are intended to be covered as federal law enforcement agency records “not subject” to the FOIA. A legitimate question could be raised whether the records include records falling within an FOIA exemption or records that are not subject to disclosure pursuant to the Privacy Act or another federal law.

As previously noted, some federal records information in the custody of a state or local agency is exempt from public disclosure.²² If the bill requires disclosure of this information when it is held by a federal law enforcement agency, there would be an inconsistent application of the Florida Public Records Act.

The bill would expand Florida’s Public Records Act to include records of a federal law enforcement agency that are not subject to FOIA. While this expansion does not appear to violate

¹⁸ 5 U.S.C. s. 552(b)(7)(C). See *DOJ v. Reporters Comm. for Free Press*, 489 U.S. 749 (1989) (disclosure of the contents of an FBI rap-sheet to a third party is prohibited by 5 U.S.C. s. 552(b)(7)(C)).

¹⁹ *OIP Guidance: The Interface Between the FOIA and Privacy Act Under the FOIA*, *supra*.

²⁰ A “system of records” is “a group of agency-controlled records from which information is retrieved by a unique identifier, such as the individual’s name or employee identification number.” *Id.*

²¹ *Overview of the Privacy Act: 2020 Edition*, Office of Privacy and Civil Liberties, U.S. Department of Justice, available at <https://www.justice.gov/opcl/overview-privacy-act-1974-2020-edition/disclosures-third-parties> (last visited on March 8, 2023). For a list of exemptions, see 5 U.S.C. s. 552 and *Overview of the Privacy Act: 2020 Edition*, *supra*.

²² See s. 943.053(2), F.S. (criminal history information obtained from federal criminal justice information systems) and s. 119.071(2)(b), F.S. (criminal intelligence or investigative information received by a Florida criminal justice agency from a non-Florida criminal justice agency on a confidential or similarly restricted basis).

the right to access public records in the State Constitution,²³ the State Constitution does not provide any support for this expansion.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

The bill does not create a public records exemption or modify an existing public records exemption.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Supremacy Clause

The typical scenario in which state public record law may come into conflict with federal law is when there is a public records request for a federal record or information in the custody of a state custodian of records, such as a state agency. In this scenario, the federal law may preempt the state law.

The general rule is that records which would otherwise be public under state law are unavailable for public inspection only when there is an absolute conflict between federal and state law relating to confidentiality of records. If a federal statute requires particular records to be closed and the state is clearly subject to the provisions of such statute, then pursuant to the Supremacy Clause of the United States Constitution, Article VI, U.S. Const., the state must keep the records confidential. *State ex rel. Cummer v. Pace*, 159 So. 679 (Fla. 1935); AGOs 90-102, 85-03, 81-101, 80-31, and 74-372.²⁴

“[E]ven if Congress has neither expressly preempted state law nor occupied the field, state law is preempted when it actually conflicts with federal law. ‘Conflict preemption,’ as it is commonly known, arises in two circumstances: when it is impossible to comply

²³ FLA. CONST., art. I, s. 24(a).

²⁴ Gleason, Patricia. *Overview of the Sunshine and Public Records Laws* (2020), p. 55 available at <https://www-media.floridabar.org/uploads/2022/09/2022-Open-government-overview.doc> (last visited on March 8, 2023).

with both federal and state law and when state law stands as an obstacle to achieving the objectives of the federal law.”²⁵

Staff did not find any case in which a state legislature compelled a federal agency to comply with that state’s public records law requirements. However, courts have held that state court orders were in violation of the Supremacy Clause to the extent those orders compelled production or expunction of federal agency records.²⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The provisions of the bill impact federal agencies so there should not be any state fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 119.01 and 119.011.

This bill creates the section 119.013 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

²⁵ *Cliff v. Payco Gen. Am. Credits, Inc.*, 363 F.3d 1113, 1122 (11th Cir. 2004) (citations omitted).

²⁶ *See State v. Shirley M.*, 136 Ohio App.3d 753, 737 N.E.2d 1013, 1014 (8th Dist. 2000) (Supremacy Clause was violated insofar as Ohio law gives state court jurisdiction to enter expungement and sealing orders with respect to federal records maintained or in the custody of federal officials); *In re Application of Pacifico for Sealing of Records*, 129 Ohio App. 3d 152, 717 N.E.2d 393 (2d Dist. 1998) (similar holding); and *Schwab v. Gallas*, 742 F.Supp. 509 (N.D. Ohio 1989) (similar holding).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Collins

14-00776-23

2023310__

A bill to be entitled

An act relating to federal law enforcement agency records; amending s. 119.01, F.S.; revising the general state policy on public records to include certain federal law enforcement agency records; amending s. 119.011, F.S.; revising definitions; creating s. 119.013, F.S.; requiring certain federal law enforcement agencies to comply with the public records requirements of this state; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 119.01, Florida Statutes, is amended to read:

119.01 General state policy on public records.—

(1) It is the policy of this state that all state, county, and municipal records, and the records of federal law enforcement agencies that are not subject to the Freedom of Information Act and which have physical offices located in this state, are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

Section 2. Subsections (2) and (5) of section 119.011, Florida Statutes, are amended to read:

119.011 Definitions.—As used in this chapter, the term:

(2) "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or

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14-00776-23

2023310__

established by law, including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel;~~—and~~ any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency; and any federal law enforcement agency that is not subject to the Freedom of Information Act and which has a physical office located in this state.

(5) "Custodian of public records" means the elected or appointed state, county, ~~or~~ municipal, or federal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

Section 3. Section 119.013, Florida Statutes, is created to read:

119.013 Federal law enforcement agency records.—A federal law enforcement agency that is not subject to the Freedom of Information Act and that has a physical office located in this state shall comply with the public records requirements of this state.

Section 4. This act shall take effect July 1, 2023.

Page 2 of 2

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 384

INTRODUCER: Senator Bradley

SUBJECT: Violent Offenses Committed Against Criminal Defense Attorneys

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Pre-meeting
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 384 provides for enhanced punishment for certain violent offenses committed against any court-appointed counsel or defense attorney acting in his or her capacity as defense counsel. These professionals are added to the list of criminal justice professionals in s. 775.0823, F.S. A sentence point multiplier in s. 921.0024, F.S., of the Criminal Punishment Code is applied when such violent offense is committed against a listed criminal justice professional when such offense arises out of or in the scope of the professional's official duties.

The Legislature's Office of Economic and Demographic Research preliminary estimates that the bill will have a "positive insignificant" prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Recent Incident of Violence on Court-Appointed Counsel

On November 21, 2022, an attorney employed by the Office of Criminal Conflict and Civil Regional Counsel, First Region, was representing a defendant charged with a criminal offense at a trial in Alachua County.¹ Without warning, the defendant repeatedly punched his attorney on the left side of his head, fracturing the attorney's skull.² The defendant was subsequently charged

¹ Patrick R. Fargason, *Measure Would Provide More Protections for Defense Lawyers*, Fla. Bar News, (Jan. 4, 2023), available at <https://www.floridabar.org/the-florida-bar-news/measure-would-provide-more-protections-for-defense-lawyers/> (last visited on Feb. 27, 2023).

² *Id.*

with aggravated battery, a second degree felony.³ While current law provides for enhanced punishment for certain violent offenses committed against specified criminal justice professionals while they are engaged in their professional duties,⁴ this law does not currently cover court-appointed counsel or defense attorneys.⁵

The Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code⁶ (Code) as Florida's "primary sentencing policy."⁷ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁸ Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may be added or multiplied for other factors such as victim injury, commission of certain drug trafficking offenses, and certain violent offenses committed against listed criminal justice professionals performing their duties. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁹

Absent mitigation,¹⁰ the permissible sentencing range under the Code is generally the scored lowest permissible sentence up to, and including, the maximum sentence provided in s. 775.082, F.S.¹¹ However, if the offender's offense has a mandatory minimum term that is greater than the scored lowest permissible sentence, the mandatory minimum term supersedes the lowest permissible sentence scored.¹² Further, some offenders may qualify for prison diversion under various sections of the Florida Statutes.¹³

³ A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

⁴ See ss. 775.0823 and 921.0024(1)(b), F.S.

⁵ *Id.*

⁶ Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

⁷ See chs. 97-194 and 98-204, L.O.F.

⁸ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

⁹ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

¹⁰ The court may "mitigate" (reduce) the scored lowest permissible sentence if the court finds a mitigating circumstance. Sections 921.002(1)(g) and (3), 921.0026(1), and 921.00265(1) and (2), F.S. Section 921.0026(2), F.S., provides a list of mitigating circumstances. This type of sentence is often referred to as a "downward departure" sentence.

¹¹ Sections 921.002(1)(g) and 921.0024(2), F.S. The sentencing court may impose sentences concurrently or consecutively. A prison sentence must exceed one year. If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

¹² Fla. R. Crim. P. 3.704(d)(26).

¹³ See e.g., s. 775.082(10), F.S. (diversion for an offender whose offense is a nonviolent third degree felony and whose total sentence points are 22 points or fewer); s. 921.00241, F.S. (diversion into a Department of Corrections' prison diversion program for certain nonviolent third degree felony offenders); and s. 948.01, F.S. (diversion into a postadjudicatory treatment-based drug court program for certain nonviolent felony offenders).

Section 775.0823, F.S., and the LEPA Multiplier under s. 921.0024, F.S.

Section 775.0823, F.S., and s. 921.0024(1)(b), F.S., work jointly to provide for enhanced punishment under the Code for certain violent offenses committed against a specified criminal justice professional when such offense arises out of or in the scope of the professional's official duties.¹⁴ The violent offenses are:

- Attempted first degree murder under s. 782.04(1), F.S.;
- Attempted felony murder under s. 782.051, F.S.;
- Second degree murder under s. 782.04(2) and (3), F.S.;
- Attempted second degree murder under s. 782.04(2) and (3), F.S.
- Third degree murder under s. 782.04(4), F.S.;
- Attempted third degree murder under s. 782.04(4), F.S.;
- Manslaughter under s. 782.07, F.S., during the commission of a crime;
- Kidnapping under s. 787.01, F.S.;
- Aggravated battery under s. 784.045, F.S.; and
- Aggravated assault under s. 784.021, F.S.¹⁵

The specified criminal justice professionals are any:

- Law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.;
- State attorney elected pursuant to s. 27.01, F.S., or assistant state attorney appointed under s. 27.181; F.S.; and
- Justice or judge of a court described in Art. V of the State Constitution.¹⁶

The LEPA multiplier (an acronym for “Law Enforcement Protection Act,” s. 775.0823, F.S.) under s. 921.0024(1)(b), F.S., of the Code multiplies sentence points under the Code for any violent offense specified in s. 775.0823, F.S., that is committed against a listed criminal justice professional when such offense arises out of or in the scope of the professional's official duties. Sentence points are multiplied in the following manner:

- Multiplier of 2.5 for:
 - Attempted first degree murder;¹⁷
 - Attempted felony murder;¹⁸ and

¹⁴ Section 775.0823(1), F.S., specifies life imprisonment without early release is the punishment if a death sentence is not imposed. This provision is not relevant to the Code multiplier because the Code does not apply to capital felonies. Section 921.002, F.S.

¹⁵ Section 775.0823(1)-(11), F.S.

¹⁶ Section 775.0823, F.S.

¹⁷ Attempted first degree murder is a level 9 first degree felony. Sections 777.04(4)(b), 782.04(1), and 921.0022(3)(i.), F.S. A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S. However, if the victim is a law enforcement officer, correctional officer, or correctional probation officer, the defendant must be sentenced to life imprisonment without eligibility for release. Section 782.065(1), F.S.

¹⁸ Attempted felony murder is either a level 8 first degree felony or a level 9 first degree felony (punishable by life). Sections 782.051(1) and (2), and 921.0022(3)(h) and (i.), F.S. However, if the victim is a law enforcement officer, correctional officer, or correctional probation officer, the defendant must be sentenced to life imprisonment without eligibility for release. Section 782.065(1), F.S.

- Second degree murder.¹⁹
- Multiplier of 2.0 for:
 - Attempted second degree murder;²⁰
 - Third degree murder;²¹
 - Attempted third degree murder;²²
 - Manslaughter²³ committed during the commission of a crime; and
 - Kidnapping under s. 787.01, F.S.²⁴
- Multiplier of 1.5 for:
 - Aggravated battery under s. 784.045, F.S.;²⁵ and
 - Aggravated assault under s. 784.021, F.S.²⁶

The effect of the LEPA multiplier is that the minimum prison sentence (in months) under the Code will be longer.

III. Effect of Proposed Changes:

The bill amends s. 775.0823, F.S., to provide for enhanced punishment for violent offenses committed against any court-appointed counsel appointed under s. 27.40, F.S.,²⁷ or defense attorney acting in his or her capacity as defense counsel.²⁸ These professionals are added to a list of criminal justice professionals in s. 775.0823, F.S. The following sentence point multiplier in s. 921.0024(1)(b), F.S., of the Code must be applied when the violent offense is committed against a listed criminal justice professional when such offense arises out of or in the scope of the professional's official duties:

- Multiplier of 2.5 for:

¹⁹ Second degree murder is either a level 9 first degree felony (punishable by life) or a level 10 first degree felony (punishable by life). Sections 782.04(2) and (3) and 921.0022(3)(i) and (j), F.S. However, if the victim is a law enforcement officer, correctional officer, or correctional probation officer, the defendant must be sentenced to life imprisonment without eligibility for release. Section 782.065(1), F.S.

²⁰ Attempted second degree murder is a level 8 or level 9 second degree felony. Sections 777.04(4)(a) and (c) and 782.04(2) and (3), F.S. While a second degree felony is generally punishable by not more than 15 years in state prison (s. 775.082, F.S.), if the victim is a law enforcement officer, correctional officer, or correctional probation officer, the defendant must be sentenced to life imprisonment without eligibility for release. Section 782.065(1), F.S.

²¹ Third degree murder is a level 8 second degree felony. Sections 782.04(4) and 921.0022(3)(h), F.S.

²² Attempted third degree murder is a level 7 third degree felony. Sections 777.04(4)(a) and (d) and 782.04(4), F.S. A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

²³ Manslaughter is a level 7 second degree felony or a level 7 first degree felony. Sections 782.07(1) and (4), 921.002(3)(g), and 921.0023(3), F.S.

²⁴ Kidnapping is generally a level 9 first degree felony (punishable by life). Sections 787.01(2) and 921.0022(3)(i), F.S.

²⁵ Aggravated battery is a level 7 second degree felony. Sections 784.045 and 921.0022(3)(g), F.S.

²⁶ Aggravated assault is a level 6 second degree felony. Sections 784.021 and 921.0022(3)(f), F.S.

²⁷ Section 27.40, F.S., provides for the appointment of counsel to represent any individual in a criminal or civil proceeding who is entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court appoints a public defender to represent indigent persons as authorized in s. 27.51, F.S. The office of criminal conflict and civil regional counsel are appointed to represent persons in those cases in which provision is made for court-appointed counsel, but only after the public defender has certified to the court in writing that the public defender is unable to provide representation due to a conflict of interest or is not authorized to provide representation. Private counsel appointed by the court to provide representation are selected from a registry of individual attorneys maintained under s. 27.40, F.S. *See* s. 27.40(1)-(3), F.S.

²⁸ The bill does not specify that it only applies to court-appointed counsel and defense counsel in a criminal proceeding.

- Attempted first degree murder;
- Attempted felony murder;²⁹ and
- Second degree murder.
- Multiplier of 2.0 for:
 - Attempted second degree murder;
 - Third degree murder;
 - Attempted third degree murder;
 - Manslaughter committed during the commission of a crime; and
 - Kidnapping under s. 787.01, F.S.
- Multiplier of 1.5 for:
 - Aggravated battery under s. 784.045, F.S.; and
 - Aggravated assault under s. 784.021, F.S.³⁰

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²⁹ Attempted felony murder is either a level 8 first degree felony or a level 9 first degree felony (punishable by life). Sections 782.051(1) and (2), and 921.0022(3)(h) and (i.), F.S. However, if the victim is a law enforcement officer, correctional officer, or correctional probation officer, the defendant must be sentenced to life imprisonment without eligibility for release. Section 782.065(1), F.S.

³⁰ See “Present Situation” section of this analysis for a discussion of the maximum penalties and offense severity ranking levels under the Code associated with these violent offenses.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimates that the bill will have a "positive insignificant" prison bed impact (an increase of 10 or fewer prison beds).³¹

The EDR provides the following information regarding its estimate:

Per [Department of Corrections], data on the profession of victims is not available for most of the violent offenses covered in this statute. However, per [Florida Department of Law Enforcement], there were 11 officers killed feloniously between 2015 and 2020. Also, s. 784.07, F.S.[,] does cover offense reclassification for aggravated assault/battery of law enforcement officers, firefighters, emergency medical providers, public transit employees, etc. In FY 18-19, there were 122 new commitments to prison for these offenses and in FY 19-20, there were 103 new commitments. In FY 20-21, there were 101 new commitments, and there were 119 new commitments in FY 21-22. Finally, s. 782.07(4)[,] F.S.[,] contains a felony for manslaughter of law enforcement officers, firefighters, and other first responders. There have been 2 new commitments in the last four fiscal years for a violation of s. 782.07(4)[,] F.S. Multiple professions are currently covered under these statutes, so this new language would not be expected to have a significant impact on the prison population.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³¹ *SB 384 – Violent Offenses Committed Against Criminal Defense Attorneys*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

³² *Id.*

VIII. Statutes Affected:

This bill substantially amends section 775.0823 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 775.0823, Florida Statutes, is amended
to read:

775.0823 Violent offenses committed against specified
justice system personnel ~~law enforcement officers, correctional~~
~~officers, state attorneys, assistant state attorneys, justices,~~
~~or judges.~~—The Legislature does hereby provide for an increase



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and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; against any public defender elected pursuant to s. 27.50 or regional counsel appointed pursuant to s. 27.511(3); against any court-appointed counsel appointed under s. 27.40 or defense attorney in a criminal proceeding; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, the public defender or regional counsel acting in his or her capacity as defense counsel, the court-appointed counsel or defense attorney in a criminal proceeding acting in his or her capacity as defense counsel, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(3) For attempted felony murder as described in s. 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(4) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.



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(5) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(6) For murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(7) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(8) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(9) For kidnapping as described in s. 787.01, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(10) For aggravated battery as described in s. 784.045, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(11) For aggravated assault as described in s. 784.021, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

Notwithstanding ~~the provisions of~~ s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 2. Paragraph (b) of subsection (1) of section 921.0024, Florida Statutes, is amended to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(b) WORKSHEET KEY:



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Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:

I. The violation does not include a new felony conviction; and

II. The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.

b. Twenty-four (24) community sanction violation points are assessed for the violation and for each successive violation of



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felony probation or community control where the violation includes a new felony conviction.

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of thirty (30) points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that



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jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his or her possession: a firearm as defined in s. 790.001(6), an additional eighteen (18) sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his or her possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional twenty-five (25) sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Violent offenses committed against specified justice system personnel ~~Law enforcement protection~~: If the primary offense is a violation of ~~the Law Enforcement Protection Act~~ under s. 775.0823(2), (3), or (4), the subtotal sentence points are



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multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or ~~of the Law Enforcement Protection Act under~~ s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Offense related to a criminal gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03, the subtotal sentence points are multiplied by 1.5. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family or household member as defined in s. 741.28(3) with the victim or perpetrator, the subtotal sentence points are



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multiplied by 1.5.

Adult-on-minor sex offense: If the offender was 18 years of age or older and the victim was younger than 18 years of age at the time the offender committed the primary offense, and if the primary offense was an offense committed on or after October 1, 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed a sexual battery under chapter 794 or a lewd act under s. 800.04 or s. 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; or s. 847.0135(5), the subtotal sentence points are multiplied by 2.0. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

Section 3. Subsection (3) of section 947.146, Florida Statutes, is amended to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In



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establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department's management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;



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(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or



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(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of ~~the Law Enforcement Protection Act under~~ s. 775.0823(2), (3), (4), (5), or (6), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of ~~the Law Enforcement Protection Act under~~ s. 775.0823(2), (3), (4), (5), (6), (7), (8), or (9), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the offender's sentence points pursuant to former s. 921.0014 or s. 921.0024; or

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).



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In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 4. This act shall take effect July 1, 2023.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to violent offenses committed against criminal defense attorneys; amending s. 775.0823, F.S.; providing for the reclassification of specified offenses committed against criminal defense attorneys; amending ss. 921.0024 and 947.146, F.S.; conforming provisions to changes made by the act; providing an effective date.

By Senator Bradley

6-00466-23

2023384__

A bill to be entitled

An act relating to violent offenses committed against criminal defense attorneys; amending s. 775.0823, F.S.; providing for the reclassification of specified offenses committed against criminal defense attorneys; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against specified justice system personnel ~~law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.~~—The Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; against any court-appointed counsel appointed under s. 27.40 or defense attorney acting in his or her capacity as defense counsel; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, the court-appointed counsel or defense attorney acting in his or her capacity as defense counsel, or the justice's or judge's duty as a judicial officer,

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as follows:

- (1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.
- (2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (3) For attempted felony murder as described in s. 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (4) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (5) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (6) For murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (7) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (8) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (9) For kidnapping as described in s. 787.01, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (10) For aggravated battery as described in s. 784.045, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.
- (11) For aggravated assault as described in s. 784.021, a

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59 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

60

61 Notwithstanding ~~the provisions of~~ s. 948.01, with respect to any

62 person who is found to have violated this section, adjudication

63 of guilt or imposition of sentence shall not be suspended,

64 deferred, or withheld.

65 Section 2. This act shall take effect July 1, 2023.

SB 384 – Violent Offenses Committed Against Criminal Defense Attorneys

This bill adds “**any court-appointed counsel appointed under s. 27.40, F.S. or defense attorney acting in his or her capacity as defense counsel**” to s. 775.0823, F.S., which addresses violent offenses against law enforcement officers, correctional officers, elected state attorneys, assistant state attorneys, or any justice or judge of a court. Sentence point multipliers are applied depending on the severity of the offense, ranging between 1.5 for aggravated assault/battery to 2.5 for attempted first degree murder, with the minimum of “imprisonment for life without eligibility for release” for murder in the first degree.

Per DOC, data on the profession of victims is not available for most of the violent offenses covered in this statute. However, per FDLE, there were 11 officers killed feloniously between 2015 and 2020. Also, s. 784.07, F.S. does cover offense reclassification for aggravated assault/battery of law enforcement officers, firefighters, emergency medical providers, public transit employees, etc. In FY 18-19, there were 122 new commitments to prison for these offenses and in FY 19-20, there were 103 new commitments. In FY 20-21, there were 101 new commitments, and there were 119 new commitments in FY 21-22. Finally, s. 782.07(4), F.S. contains a felony for manslaughter of law enforcement officers, firefighters, and other first responders. There have been 2 new commitments in the last four fiscal years for a violation of s. 782.07(4), F.S. Multiple professions are currently covered under these statutes, so this new language would not be expected to have a significant impact on the prison population.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: Senate

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 446

INTRODUCER: Senator Rodriguez

SUBJECT: Offenses Committed Upon Assistant State Attorneys

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 446 adds assistant state attorney to the definition of “law enforcement officer” in s. 784.07, F.S., which provides for the reclassification of the misdemeanor or felony degree of assault, battery, aggravated assault, and aggravated battery when the offense is knowingly committed against a law enforcement officer or other specified professional who is engaged in the lawful performance of his or her duties. This statute also provides for certain mandatory minimum terms when the victim is a law enforcement officer.

By reclassifying assaults and batteries committed against these professionals (including, under the bill, assistant state attorneys), the maximum penalty available for these offenses is increased. In the case of felonies, more sentence points are accrued under the Criminal Punishment Code. These points are used to determine if the minimum sentence recommended is state prison and, if prison is recommended, the minimum prison sentence length. Further, sentence points are multiplied by 1.5 under s. 921.0024(1)(b), F.S., if the offense is battery and, during the commission of the offense, the offender possessed a firearm, destructive device, or other specified weapon.

The Legislature’s Office of Economic and Demographic Research preliminary estimates that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

The Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code¹ (Code) as Florida's "primary sentencing policy."² Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).³ Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may be added or multiplied for other factors such as victim injury, commission of certain drug trafficking offenses, and certain violent offenses committed against listed criminal justice professionals performing their duties. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence *in prison* months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁴

Absent mitigation,⁵ the permissible sentencing range under the Code is generally the scored lowest permissible sentence up to, and including, the maximum sentence provided in s. 775.082, F.S.⁶ However, if the offender's offense has a mandatory minimum term that is greater than the scored lowest permissible sentence, the mandatory minimum term supersedes the lowest permissible sentence scored.⁷ Further, some offenders may qualify for prison diversion under various sections of the Florida Statutes.⁸

Section 784.07, F.S., and the LEPA Multiplier under s. 921.0024, F.S.

Section 784.07, F.S., provides for the reclassification of the misdemeanor or felony degree of assault, battery, aggravated assault, and aggravated battery and mandatory minimum terms when the offense is knowingly committed against a law enforcement officer or other specified professional who is engaged in the lawful performance of his or her duties.

¹ Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

² See chs. 97-194 and 98-204, L.O.F.

³ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

⁴ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁵ The court may "mitigate" (reduce) the scored lowest permissible sentence if the court finds a mitigating circumstance. Sections 921.002(1)(g) and (3), 921.0026(1), and 921.00265(1) and (2), F.S. Section 921.0026(2), F.S., provides a list of mitigating circumstances. This type of sentence is often referred to as a "downward departure" sentence.

⁶ Sections 921.002(1)(g) and 921.0024(2), F.S. The sentencing court may impose sentences concurrently or consecutively. A prison sentence must exceed one year. If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

⁷ Fla. R. Crim. P. 3.704(d)(26).

⁸ See e.g., s. 775.082(10), F.S. (diversion for an offender whose offense is a nonviolent third degree felony and whose total sentence points are 22 points or fewer); s. 921.00241, F.S. (diversion into a Department of Corrections' prison diversion program for certain nonviolent third degree felony offenders); and s. 948.01, F.S. (diversion into a postadjudicatory treatment-based drug court program for certain nonviolent felony offenders).

The following professionals are currently covered by s. 784.07, F.S.:

- A law enforcement officer;⁹
- A firefighter;¹⁰
- An emergency medical care provider;¹¹
- A railroad special officer;¹²
- A traffic accident investigation officer as described in s. 316.640, F.S.;
- A nonsworn law enforcement agency employee who is certified as an agency inspector;
- A blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI;
- A law enforcement explorer;¹³
- A traffic infraction enforcement officer as described in s. 316.640, F.S.;
- A parking enforcement specialist as defined in s. 316.640, F.S.;
- A public transit employee or agent;¹⁴
- A person licensed as a security officer as defined in s. 493.6101, F.S., and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer; and
- A security officer employed by the board of trustees of a community college.¹⁵

⁹ The term “law enforcement officer” includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, F.S., and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Florida Commission on Offender Review; a federal law enforcement officer as defined in s. 901.1505, F.S.; and law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the Department of Law Enforcement. Section 784.07(1)(d), F.S.

¹⁰ “Firefighter” means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires. Section 784.07(1)(b), F.S.

¹¹ “Emergency medical care provider” means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, F.S., medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the performance of his or her duties. The term “emergency medical care provider” also includes physicians, employees, agents, or volunteers of hospitals as defined in ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital’s emergency department or the security thereof. Section 784.07(1)(a), F.S.

¹² “Railroad special officer” means a person employed by a Class I, Class II, or Class III railroad and appointed or pending appointment by the Governor pursuant to s. 354.01, F.S. Section 784.07(1)(f), F.S.

¹³ “Law enforcement explorer” means any person who is a current member of a law enforcement agency’s explorer program and who is performing functions other than those required to be performed by sworn law enforcement officers on behalf of a law enforcement agency while under the direct physical supervision of a sworn officer of that agency and wearing a uniform that bears at least one patch that clearly identifies the law enforcement agency that he or she represents. Section 784.07(1)(c), F.S.

¹⁴ “Public transit employees or agents” means bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(l), F.S. Section 784.07(1)(e), F.S.

¹⁵ Section 784.07(1) and (2), F.S.

The specific reclassifications and mandatory minimum terms are described as follows:

- Assault is reclassified from a second degree misdemeanor¹⁶ to a first degree misdemeanor.¹⁷
- Battery is reclassified from a first degree misdemeanor to a level 4¹⁸ third degree felony¹⁹ and a 6-month mandatory minimum term applies to battery of a law enforcement officer committed in furtherance of a riot or an aggravated riot.
- Aggravated assault is reclassified from a level 6²⁰ third degree felony to a level 6²¹ second degree felony²² and a 3-year mandatory minimum term applies to aggravated assault of a law enforcement officer.
- Aggravated battery is reclassified from a level 7²³ second degree felony to level 7 first degree felony²⁴ and a 5-year mandatory minimum term applies to battery of a law enforcement officer.²⁵

Further, the following mandatory minimum terms apply to a person who commits battery against a listed professional (as previously described) and, during the commission of the offense, possessed a firearm, destructive device, or other specified weapon:

- A 3-year mandatory minimum term if the weapon possessed is a firearm or destructive device; and
- An 8-year mandatory minimum term if the weapon possessed is a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun.²⁶

Code sentence points are multiplied by 1.5 under s. 921.0024(1)(b), F.S., if the offense is battery and, during the commission of the offense, the offender possessed a firearm, destructive device, or other specified weapon.²⁷

¹⁶ A second degree misdemeanor is punishable by not more 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.0833, F.S.

¹⁷ A first degree misdemeanor is punishable by not more than one year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.0833, F.S.

¹⁸ Section 921.0022(3)(d), F.S.

¹⁹ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

²⁰ Section 921.0022(3)(f), F.S.

²¹ *Id.*

²² A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

²³ Section 921.0022(3)(g), F.S.

²⁴ A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

²⁵ Section 784.07(2), F.S.

²⁶ Section 784.07(3), F.S.

²⁷ For aggravated assault and aggravated battery of an assistant state attorney, sentence points are also multiplied by 1.5. *See* ss. 775.0823(10) and (11) and 921.0024, F.S.

III. Effect of Proposed Changes:

The bill adds assistant state attorney, as described in s. 27.181, F.S.,²⁸ to the definition of “law enforcement officer” in s. 784.07, F.S.,²⁹ which provides for the reclassification of the misdemeanor or felony degree of assault, battery, aggravated assault, and aggravated battery when the offense is knowingly committed against a law enforcement officer or other specified professional who is engaged in the lawful performance of his or her duties. This statute also provides for certain mandatory minimum terms when the victim is a law enforcement officer.

By reclassifying assaults and batteries committed against these professionals (including, under the bill, assistant state attorneys), the maximum penalty available for these offenses is increased. In the case of felonies, more sentence points are accrued under the Code. These points are used to determine if the minimum sentence recommended is state prison and, if prison is recommended, the minimum prison sentence length. Further, sentence points are multiplied by 1.5 under s. 921.0024(1)(b), F.S., if the offense is battery and, during the commission of the offense, the offender possessed a firearm, destructive device, or other specified weapon.

The specific reclassifications and mandatory minimum terms are described as follows:

- Assault is reclassified from a second degree misdemeanor to a first degree misdemeanor.
- Battery is reclassified from a first degree misdemeanor to a level 4 third degree felony and a 6-month mandatory minimum term applies to battery of a law enforcement officer committed in furtherance of a riot or an aggravated riot.
- Aggravated assault is reclassified from a level 6 third degree felony to a level 6 second degree felony and a 3-year mandatory minimum term applies to aggravated assault of a law enforcement officer.
- Aggravated battery is reclassified from a level 7 second degree felony to a level 7 first degree felony and a 5-year mandatory minimum term applies to battery of a law enforcement officer.³⁰

Further, the following mandatory minimum terms apply to a person who commits battery against a listed professional (as previously described) and, during the commission of the offense, possessed a firearm, destructive device, or other specified weapon:

- A 3-year mandatory minimum term if the weapon possessed is a firearm or destructive device; and
- A 8-year mandatory minimum term if the weapon possessed is a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun.

²⁸ An assistant state attorney appointed by a state attorney serves during the pleasure of the state attorney appointing him or her. Each assistant state attorney appointed by a state attorney has all of the powers and discharge all of the duties of the state attorney appointing him or her, under the direction of that state attorney. Section 27.181(1) and (2), F.S.

²⁹ The inclusion of “assistant state attorney” in the definition of “law enforcement officer” does not create any conflict because the definition of “law enforcement officer” is effectively nothing more than a list that includes deputies, police officers, and others. The definition does contain duties or powers associated with deputies and police officers such as the power to make arrests or require training or certification as a law enforcement officer. Further, there is precedent for inclusion of “assistant state attorney” in the definition of “law enforcement officer.” Prosecutors are included in the definition of “investigative or law enforcement officer” in s. 934.02(6), F.S. Chapter 934, F.S., is Florida’s wiretap law.

³⁰ See “Present Situation” section of this analysis for a discussion of maximum penalties and offense severity level ranking under the Code relevant to these reclassified offenses.

Finally, Code sentence points are multiplied by 1.5 under s. 921.0024(1)(b), F.S., if the offense is battery and, during the commission of the offense, the offender possessed a firearm, destructive device, or other specified weapon.

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimates that the bill

will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).³¹ The EDR provides the following additional information regarding its estimate:

Large numbers come to prison each year with these offenses as primary. In FY 18-19, there were 400 new commitments to prison for these offenses and in FY 19-20, there were 286 new commitments. In FY 20-21, there were 260 new commitments, and there were 320 new commitments in FY 21-22. It is unknown how large the assistant state attorney victim pool is, but simple battery is the most common felony offense and the incarceration rate is low (16.2% in FY 18-19, 14.4% in FY 19-20, 16.7% in FY 20-21, and 14.4% in FY 20-21). [The Criminal Justice Impact Conference] ... has heard bills with the same provisions in prior years and found them to have an insignificant impact due to low volume.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 784.07 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

³¹ *HB 369 – Offenses Committed on Assistant State Attorneys (Identical SB 446)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

³² *Id.*

By Senator Rodriguez

40-01036-23

2023446__

A bill to be entitled

An act relating to offenses committed upon assistant state attorneys; amending s. 784.07, F.S.; providing for the enhancement of criminal penalties for certain assault or battery offenses committed upon assistant state attorneys; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (1) of section 784.07, Florida Statutes, is amended, and subsection (2) of that section is republished, to read:

784.07 Assault or battery of ~~law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other~~ specified officers; reclassification of offenses; minimum sentences.-

(1) As used in this section, the term:

(d) "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Florida Commission on Offender Review; a federal law enforcement officer as defined in s. 901.1505; ~~and~~ law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the

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Department of Law Enforcement; and an assistant state attorney, as described in s. 27.181.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a railroad special officer, a traffic accident investigation officer as described in s. 316.640, a nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, a law enforcement explorer, a traffic infraction enforcement officer as described in s. 316.640, a parking enforcement specialist as defined in s. 316.640, a person licensed as a security officer as defined in s. 493.6101 and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, railroad special officer, traffic accident investigation officer, traffic infraction enforcement officer, inspector, analyst, operator, law enforcement explorer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

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(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree. Notwithstanding any other provision of law, a person convicted of battery upon a law enforcement officer committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01 shall be sentenced to a minimum term of imprisonment of 6 months.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

Section 2. This act shall take effect October 1, 2023.

HB 369 – Offenses Committed on Assistant State Attorneys (Identical SB 446)

This bill adds “**an assistant state attorney, as described in s. 27.181, F.S.**” to s. 784.07, F.S., which addresses assault or battery of law enforcement officers, firefighters, emergency medical providers, public transit employees, etc. Offenses under this statute are reclassified as follows:

Assault increased from 2nd degree misdemeanor to 1st degree misdemeanor;
Battery from 1st degree misdemeanor to 3rd degree felony
Aggravated assault from 3rd degree felony to 2nd degree felony
Aggravated battery from 2nd degree felony to 1st degree felony

Large numbers come to prison each year with these offenses as primary. In FY 18-19, there were 400 new commitments to prison for these offenses and in FY 19-20, there were 286 new commitments. In FY 20-21, there were 260 new commitments, and there were 320 new commitments in FY 21-22. It is unknown how large the assistant state attorney victim pool is, but simple battery is the most common felony offense and the incarceration rate is low (16.2% in FY 18-19, 14.4% in FY 19-20, 16.7% in FY 20-21, and 14.4% in FY 20-21). CJIC has heard bills with the same provisions in prior years and found them to have an insignificant impact due to low volume.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: Senate

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 486

INTRODUCER: Senator Bradley

SUBJECT: Solicitation of Minors to Commit Lewd or Lascivious Acts

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	Pre-meeting
2.			ACJ	
3.			FP	

I. Summary:

SB 486 amends s. 800.04, F.S., to create the crime of lewd or lascivious solicitation. Under the bill, a person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd and lascivious act commits the offense of lewd or lascivious solicitation, a felony of the third degree,¹ punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity chart of the Criminal Punishment Code as a level 7 offense.

The bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2023.

II. Present Situation:

The Florida Supreme Court has held that the terms “lewd” and “lascivious” mean a wicked, lustful, unchaste, licentious, or sensual intent on the part of the perpetrator.² The words “lewd” and “lascivious” behavior when used in a statute to define an offense has been held to have the same meaning, that is, an indulgence in lust, eager for sexual indulgence.³

Florida law currently contains a variety of statutes that prohibit acts relating to lewd or lascivious offenses.

¹ A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082, 775.083, and 775.084, F.S.

² *Chesebrough v. State*, 255 So.2d 675 (Fla. 1971).

³ *Buchanan v. State*, 111 So.2d 51 (Fla. 1st DCA 1959).

Lewd or Lascivious Offenses Targeting Persons Under 16 Years of Age

Section 800.04, F.S., criminalizes various acts targeting persons under 16 years of age, including: lewd or lascivious battery;⁴ lewd or lascivious molestation;⁵ lewd or lascivious conduct;⁶ and lewd or lascivious exhibition.⁷

Lewd or Lascivious Conduct

A person who intentionally touches a person under 16 years of age in a lewd or lascivious manner or solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.⁸

An offender who is:

- Eighteen years of age or older who commits lewd or lascivious conduct commits a second degree felony.⁹
- Less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.¹⁰

The Florida Standard Jury Instructions for soliciting a person under 16 years of age to commit a lewd or lascivious act provides that to “solicit” means to command, encourage, hire, or request another person to engage in specific conduct.¹¹

Prohibited Computer Usage

Section 847.0135, F.S., in part, prohibits certain solicitation offenses. Specifically, it provides that it is a third degree felony for any person to knowingly use a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, *solicit*, lure, or entice or attempt to seduce, solicit, lure, or

⁴ Section 800.04(4), F.S., defines lewd or lascivious battery as engaging in sexual activity with a person 12 years or older but less than 16 years of age; or encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity. An offender who commits lewd or lascivious battery commits a felony of the second degree.

⁵ Section 800.04(5), F.S., defines lewd or lascivious molestation as a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

⁶ Section 800.04(6), F.S.

⁷ Section 800.04(7), F.S., defines lewd or lascivious exhibition as a person who intentionally masturbates; intentionally exposes the genitals in a lewd or lascivious manner; or intentionally commits any sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition. An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, generally punishable by not more than fifteen years in state prison. An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree.

⁸ *Supra*, Note 6.

⁹ A felony of the second degree is generally punishable by a term of imprisonment not exceeding 15 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.

¹⁰ A felony of the third degree is generally punishable by a term of imprisonment not exceeding 5 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.

¹¹ Fla. Std. Jury Instr. (Crim.) 11.10(d), Lewd or Lascivious Conduct, s. 800.04(6), F.S.

entice, a child or another person believed by the person to be a child, to commit any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed to be a child.¹²

Unlawful Acts with Persons 16 and 17 Years of Age

Section 794.05, F.S., provides that a person who is 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a second degree felony.¹³ A person convicted of unlawful sexual activity with a minor must register as a sexual offender under s. 943.0435, F.S.

“Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object. Sexual activity does not include an act done for a bona fide medical purpose.

Evidence of a victim’s prior sexual conduct is not relevant in a prosecution for unlawful sexual activity with a minor. If an offender’s unlawful sexual activity with a minor directly results in the victim giving birth to a child, paternity of the child must be determined under ch. 742, F.S., and the offender must pay child support as provided in ch. 61, F.S.

Criminal Punishment Code

Felony offenses which are subject to the Criminal Punishment Code¹⁴ are listed in a single offense severity ranking chart (OSRC),¹⁵ which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense, listed in the OSRC is assigned a level according to the severity of the offense.^{16, 17} A person’s primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each current offense.^{18, 19} The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.²⁰

III. Effect of Proposed Changes:

This bill amends s. 800.04, F.S., to create the crime of lewd or lascivious solicitation. Under the bill, a person 24 years of age or older who solicits a person who is 16 or 17 years of age in

¹² Section 847.0135(3), F.S., A person misrepresenting his or her age commits a second degree felony.

¹³ Section 794.05, F.S.

¹⁴ All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

¹⁵ Section 921.0022, F.S.

¹⁶ Section 921.0022(2) and (3)(e), F.S.

¹⁷ Felony offenses that are not listed in the OSCRC default to statutorily assigned levels, as follows: an unlisted third degree felony defaults to a level 1; an unlisted second degree felony defaults to a level 4; an unlisted first degree felony defaults to a level 7; an unlisted first degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. Section 921.0023, F.S.

¹⁸ Sections 921.0022 and 921.0024, F.S.

¹⁹ A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. Section 921.0024(2), F.S.

²⁰ If a person scores more than 44 points or fewer, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. *Id.*

writing to commit a lewd and lascivious act commits the offense of lewd or lascivious solicitation, a felony of the third degree,²¹ punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity chart of the Criminal Punishment Code as a level 7 offense.

A person convicted of committing this offense of lewd or lascivious solicitation under s. 800.04, F.S., would be required to register as a sex offender with the Florida Department of Law Enforcement.²² All offenses under s. 800.04, F.S., are registerable under sexual offender registration laws, so a person with a conviction or withhold of adjudication for this offense will be subject to lifetime sexual offender registration under s. 943.0435, F.S.²³

The bill is effective October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²¹ A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082, 775.083, and 775.084, F.S.

²² Section 943.0435, F.S., defines a “sexual offender” as an individual who is convicted of a qualifying offense in Florida or another jurisdiction. Qualifying adult convictions include but not limited to offenses under s. 794.05 and s. 800.04, F.S.

²³ Florida Department of Law Enforcement, *2023 FDLE Legislative Bill Analysis SB 486* (February 17, 2023), at 2 (on file with Senate Committee on Criminal Justice).

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may have a positive indeterminate fiscal impact. In FY 18-19, the incarceration rate for a Level 7, 3rd degree felony was 48.2 percent, and in FY 19-20 the incarceration rate was 42.0 percent. In FY 20-21, the incarceration rate for a Level 7, 3rd degree felony was 38.3 percent, and in FY 21-22 the incarceration rate was 44.5 percent.

Section 847.0135, F.S., has multiple felonies that share similarities with the language added by this bill. A Level 6, 3rd degree felony exists for a person who uses a computer to facilitate sexual conduct of or with a minor, or the visual depiction of such conduct. This does not state an age for the offender, nor does it state an age for the minor, other than the person would be under 18 years of age. A Level 7, 3rd degree felony exists for the solicitation of a child, via a computer service, to commit an unlawful sex act. This also does not provide an age range for the offender or the minor. Finally, there is a Level 5, 2nd degree felony for lewd or lascivious exhibition using a computer, where the offender is 18 years or older, and the minor is less than 16 years old. None of these three felonies fit the specified age ranges, nor does the language under current statute specify different ways an offender might contact a minor through writing, but the number of new commitments for these offenses could provide supplemental information on the potential number of offenders.

Per Department of Corrections, in FY 18-19, there were 49 new commitments for the felonies described above, and there were 32 new commitments in FY 19-20. In FY 20-21, there were 18 new commitments, and in FY 21-22, there were 31 new commitments. It is not known how the offender pool might be expanded, or how prison admissions might be impacted by this new language.

This bill increases the number of people who will be required to register as sexual offenders and predators in Florida, which increases the volume of in-person registration at sheriffs' offices and address verifications required of law enforcement around Florida and will have an indeterminate financial impact.²⁴

VI. Technical Deficiencies:

Section 800.04, F.S., relates to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age, while the conduct addressed in the bill relates to persons 16 or 17 years of age.

VII. Related Issues:

None.

²⁴ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 800.04 and 921.0022.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate

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. .

House

The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 794.053, Florida Statutes, is created to
read:

794.053 Lewd or lascivious written solicitation of certain
minors.—

(1) A person 24 years of age or older who solicits a person
who is 16 or 17 years of age in writing to commit a lewd or



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lascivious act commits a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (c) of subsection (3) of section
921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking
chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30 (4)	3rd	Possession by junkyard of



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motor vehicle with
identification number plate
removed.

319.33(1)(a)

3rd

Alter or forge any
certificate of title to a
motor vehicle or mobile
home.

319.33(1)(c)

3rd

Procure or pass title on
stolen vehicle.

319.33(4)

3rd

With intent to defraud,
possess, sell, etc., a
blank, forged, or
unlawfully obtained title
or registration.

327.35(2)(b)

3rd

Felony BUI.

328.05(2)

3rd

Possess, sell, or
counterfeit fictitious,
stolen, or fraudulent
titles or bills of sale of
vessels.

328.07(4)

3rd

Manufacture, exchange, or
possess vessel with
counterfeit or wrong ID



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number.

31

376.302 (5)

3rd

Fraud related to
reimbursement for cleanup
expenses under the Inland
Protection Trust Fund.

32

379.2431
(1) (e) 5.

3rd

Taking, disturbing,
mutilating, destroying,
causing to be destroyed,
transferring, selling,
offering to sell,
molesting, or harassing
marine turtles, marine
turtle eggs, or marine
turtle nests in violation
of the Marine Turtle
Protection Act.

33

379.2431
(1) (e) 6.

3rd

Possessing any marine
turtle species or
hatchling, or parts
thereof, or the nest of any
marine turtle species
described in the Marine
Turtle Protection Act.

34

379.2431
(1) (e) 7.

3rd

Soliciting to commit or
conspiring to commit a



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violation of the Marine
Turtle Protection Act.

400.9935 (4) (a)
or (b)

3rd

Operating a clinic, or
offering services requiring
licensure, without a
license.

400.9935 (4) (e)

3rd

Filing a false license
application or other
required information or
failing to report
information.

440.1051 (3)

3rd

False report of workers'
compensation fraud or
retaliation for making such
a report.

501.001 (2) (b)

2nd

Tampers with a consumer
product or the container
using materially
false/misleading
information.

624.401 (4) (a)

3rd

Transacting insurance
without a certificate of
authority.



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624.401 (4) (b) 1. 3rd Transacting insurance
without a certificate of
authority; premium
collected less than
\$20,000.

626.902 (1) (a) & 3rd Representing an
(b) unauthorized insurer.

697.08 3rd Equity skimming.

790.15 (3) 3rd Person directs another to
discharge firearm from a
vehicle.

794.053 3rd Lewd or lascivious written
solicitation of 16 or 17
year old.

806.10 (1) 3rd Maliciously injure,
destroy, or interfere with
vehicles or equipment used
in firefighting.

806.10 (2) 3rd Interferes with or assaults
firefighter in performance
of duty.

810.09 (2) (c) 3rd Trespass on property other



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than structure or
conveyance armed with
firearm or dangerous
weapon.

812.014 (2) (c) 2.

3rd

Grand theft; \$5,000 or more
but less than \$10,000.

812.0145 (2) (c)

3rd

Theft from person 65 years
of age or older; \$300 or
more but less than \$10,000.

812.015 (8) (b)

3rd

Retail theft with intent to
sell; conspires with
others.

812.081 (2)

3rd

Theft of a trade secret.

815.04 (4) (b)

2nd

Computer offense devised to
defraud or obtain property.

817.034 (4) (a) 3.

3rd

Engages in scheme to
defraud (Florida
Communications Fraud Act),
property valued at less
than \$20,000.

817.233

3rd

Burning to defraud insurer.



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56	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
57	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
58	817.236	3rd	Filing a false motor vehicle insurance application.
59	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
60	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
61	817.49 (2) (b) 1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment



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62			instrument with intent to defraud.
	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
63			
	836.13 (2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
64			
65			
	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
66			
	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
67			
	860.15 (3)	3rd	Overcharging for repairs and parts.
68			
	870.01 (2)	3rd	Riot.
69			
	870.01 (4)	3rd	Inciting a riot.
70			



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893.13(1)(a)2. 3rd Sell, manufacture, or
deliver cannabis (or other
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4)
drugs).

893.13(1)(d)2. 2nd Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10., (3),
or (4) drugs within 1,000
feet of university.

893.13(1)(f)2. 2nd Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10., (3),
or (4) drugs within 1,000
feet of public housing
facility.

893.13(4)(c) 3rd Use or hire of minor;



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74			deliver to minor other controlled substances.
	893.13 (6) (a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
75			
	893.13 (7) (a) 8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
76			
	893.13 (7) (a) 9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
77			
	893.13 (7) (a) 10.	3rd	Affix false or forged label to package of controlled substance.
78			
	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
79			
	893.13 (8) (a) 1.	3rd	Knowingly assist a patient,



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other person, or owner of
an animal in obtaining a
controlled substance
through deceptive, untrue,
or fraudulent
representations in or
related to the
practitioner's practice.

80

893.13(8)(a)2.

3rd

Employ a trick or scheme in
the practitioner's practice
to assist a patient, other
person, or owner of an
animal in obtaining a
controlled substance.

81

893.13(8)(a)3.

3rd

Knowingly write a
prescription for a
controlled substance for a
fictitious person.

82

893.13(8)(a)4.

3rd

Write a prescription for a
controlled substance for a
patient, other person, or
an animal if the sole
purpose of writing the
prescription is a monetary
benefit for the
practitioner.



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83

918.13(1) 3rd Tampering with or
fabricating physical
evidence.

84

944.47 3rd Introduce contraband to
(1)(a)1. & 2. correctional facility.

85

944.47(1)(c) 2nd Possess contraband while
upon the grounds of a
correctional institution.

86

985.721 3rd Escapes from a juvenile
facility (secure detention
or residential commitment
facility).

87

88

89 Section 3. This act shall take effect October 1, 2023.

90

91 ===== T I T L E A M E N D M E N T =====

92 And the title is amended as follows:

93 Delete everything before the enacting clause
94 and insert:

95

A bill to be entitled

96

An act relating to solicitation of minors to commit

97

lewd or lascivious acts; creating s. 794.053, F.S.;

98

prohibiting a person 24 years of age or older from

99

soliciting a person 16 or 17 years of age in writing



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100 to commit a lewd or lascivious act; providing criminal
101 penalties; amending s. 921.0022, F.S.; ranking an
102 offense on the offense severity chart of the Criminal
103 Punishment Code; providing an effective date.
104

By Senator Bradley

6-00881-23

2023486__

1 A bill to be entitled
 2 An act relating to solicitation of minors to commit
 3 lewd or lascivious acts; amending s. 800.04, F.S.;
 4 prohibiting a person 24 years of age or older from
 5 soliciting a person 16 or 17 years of age in writing
 6 to commit a lewd or lascivious act; providing criminal
 7 penalties; amending s. 921.0022, F.S.; ranking an
 8 offense on the offense severity ranking chart of the
 9 Criminal Punishment Code; providing an effective date.

10 Be It Enacted by the Legislature of the State of Florida:

11
 12
 13 Section 1. Subsection (8) of section 800.04, Florida
 14 Statutes, is renumbered as subsection (9), and a new subsection
 15 (8) is added to that section, to read:

16 800.04 Lewd or lascivious offenses committed upon or in the
 17 presence of persons less than 16 years of age.—

18 (8) LEWD OR LASCIVIOUS SOLICITATION.—A person 24 years of
 19 age or older who solicits a person who is 16 or 17 years of age
 20 in writing to commit a lewd or lascivious act commits a felony
 21 of the third degree, punishable as provided in s. 775.082, s.
 22 775.083, or s. 775.084.

23 Section 2. Paragraph (g) of subsection (3) of section
 24 921.0022, Florida Statutes, is amended to read:

25 921.0022 Criminal Punishment Code; offense severity ranking
 26 chart.—

27 (3) OFFENSE SEVERITY RANKING CHART
 28 (g) LEVEL 7
 29

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Florida Statute	Felony Degree	Description
30 316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
31 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
32 316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
33 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
34 402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.
35 409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.

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36 409.920 2nd Medicaid provider fraud; more
(2) (b) 1.b. than \$10,000, but less than
\$50,000.

37 456.065(2) 3rd Practicing a health care
profession without a license.

38 456.065(2) 2nd Practicing a health care
profession without a license
which results in serious bodily
injury.

39 458.327(1) 3rd Practicing medicine without a
license.

40 459.013(1) 3rd Practicing osteopathic medicine
without a license.

41 460.411(1) 3rd Practicing chiropractic
medicine without a license.

42 461.012(1) 3rd Practicing podiatric medicine
without a license.

43 462.17 3rd Practicing naturopathy without
a license.

44 463.015(1) 3rd Practicing optometry without a

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45 license.

46 464.016(1) 3rd Practicing nursing without a
license.

47 465.015(2) 3rd Practicing pharmacy without a
license.

48 466.026(1) 3rd Practicing dentistry or dental
hygiene without a license.

49 467.201 3rd Practicing midwifery without a
license.

50 468.366 3rd Delivering respiratory care
services without a license.

51 483.828(1) 3rd Practicing as clinical
laboratory personnel without a
license.

52 483.901(7) 3rd Practicing medical physics
without a license.

53 484.013(1) (c) 3rd Preparing or dispensing optical
devices without a prescription.

484.053 3rd Dispensing hearing aids without
a license.

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54

494.0018(2) 1st Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.

55

560.123(8)(b)1. 3rd Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

56

560.125(5)(a) 3rd Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

57

655.50(10)(b)1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

58

775.21(10)(a) 3rd Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

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59

775.21(10)(b) 3rd Sexual predator working where children regularly congregate.

60

775.21(10)(g) 3rd Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

61

782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

62

782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

63

782.071 2nd Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).

64

782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel

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homicide).

65

784.045(1)(a)1. 2nd Aggravated battery;
intentionally causing great
bodily harm or disfigurement.

66

784.045(1)(a)2. 2nd Aggravated battery; using
deadly weapon.

67

784.045(1)(b) 2nd Aggravated battery; perpetrator
aware victim pregnant.

68

784.048(4) 3rd Aggravated stalking; violation
of injunction or court order.

69

784.048(7) 3rd Aggravated stalking; violation
of court order.

70

784.07(2)(d) 1st Aggravated battery on law
enforcement officer.

71

784.074(1)(a) 1st Aggravated battery on sexually
violent predators facility
staff.

72

784.08(2)(a) 1st Aggravated battery on a person
65 years of age or older.

73

784.081(1) 1st Aggravated battery on specified

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official or employee.

74

784.082(1) 1st Aggravated battery by detained
person on visitor or other
detainee.

75

784.083(1) 1st Aggravated battery on code
inspector.

76

787.06(3)(a)2. 1st Human trafficking using
coercion for labor and services
of an adult.

77

787.06(3)(e)2. 1st Human trafficking using
coercion for labor and services
by the transfer or transport of
an adult from outside Florida
to within the state.

78

790.07(4) 1st Specified weapons violation
subsequent to previous
conviction of s. 790.07(1) or
(2).

79

790.16(1) 1st Discharge of a machine gun
under specified circumstances.

80

790.165(2) 2nd Manufacture, sell, possess, or
deliver hoax bomb.

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81

790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

82

790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

83

790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

84

790.23 1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.

85

794.08(4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

86

796.05(1) 1st Live on earnings of a prostitute; 2nd offense.

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87

796.05(1) 1st Live on earnings of a prostitute; 3rd and subsequent offense.

88

800.04(5)(c)1. 2nd Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.

89

800.04(5)(c)2. 2nd Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.

90

800.04(5)(e) 1st Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.

91

800.04(8) 3rd Lewd or lascivious written solicitation of 16 or 17 year old.

92

806.01(2) 2nd Maliciously damage structure by fire or explosive.

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93	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
94	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
95	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
96	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
97	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
98	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
99	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree

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			grand theft.
100	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
101	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
102	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
103	812.131(2)(a)	2nd	Robbery by sudden snatching.
104	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
105	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
106	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
107	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.

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108	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
109	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
110	817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
111	817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
112	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
113	817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
114	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great

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			bodily harm, disability, or disfigurement.
115	825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
116	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
117	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
118	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
119	838.015	2nd	Bribery.
120	838.016	2nd	Unlawful compensation or reward for official behavior.
121	838.021(3)(a)	2nd	Unlawful harm to a public servant.
122	838.22	2nd	Bid tampering.

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843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

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893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

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	893.135	1st	Trafficking in cocaine, more
	(1) (b) 1.a.		than 28 grams, less than 200
136			grams.
	893.135	1st	Trafficking in illegal drugs,
	(1) (c) 1.a.		more than 4 grams, less than 14
			grams.
137			
	893.135	1st	Trafficking in hydrocodone, 28
	(1) (c) 2.a.		grams or more, less than 50
			grams.
138			
	893.135	1st	Trafficking in hydrocodone, 50
	(1) (c) 2.b.		grams or more, less than 100
			grams.
139			
	893.135	1st	Trafficking in oxycodone, 7
	(1) (c) 3.a.		grams or more, less than 14
			grams.
140			
	893.135	1st	Trafficking in oxycodone, 14
	(1) (c) 3.b.		grams or more, less than 25
			grams.
141			
	893.135	1st	Trafficking in fentanyl, 4
	(1) (c) 4.b. (I)		grams or more, less than 14
			grams.
142			
	893.135	1st	Trafficking in phencyclidine,

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	(1) (d) 1.a.		28 grams or more, less than 200
			grams.
143			
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone,
			200 grams or more, less than 5
			kilograms.
144			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14
			grams or more, less than 28
			grams.
145			
	893.135	1st	Trafficking in flunitrazepam, 4
	(1) (g) 1.a.		grams or more, less than 14
			grams.
146			
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1
			kilogram or more, less than 5
			kilograms.
147			
	893.135	1st	Trafficking in 1,4-Butanediol,
	(1) (j) 1.a.		1 kilogram or more, less than 5
			kilograms.
148			
	893.135	1st	Trafficking in Phenethylamines,
	(1) (k) 2.a.		10 grams or more, less than 200
			grams.
149			
	893.135	1st	Trafficking in synthetic

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	(1) (m) 2.a.		cannabinoids, 280 grams or more, less than 500 grams.
150	893.135	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
	(1) (m) 2.b.		
151	893.135	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
	(1) (n) 2.a.		
152	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
153	896.101(5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
154	896.104(4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
155	943.0435(4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.

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156	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
157	943.0435(9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
158	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
159	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
160	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
161	944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
162			

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163

944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

164

944.607(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

165

985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

166

985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

167

985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

168

Section 3. This act shall take effect October 1, 2023.



2023 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION

BILL NUMBER:	SB 0486
BILL TITLE:	Solicitation of Minors to Commit Lewd or Lascivious Acts
BILL SPONSOR:	Senator Bradley
EFFECTIVE DATE:	October 1, 2023

COMMITTEES OF REFERENCE

1) Criminal Justice
2) Appropriations on Criminal and Civil Justice
3) Fiscal Policy
4)
5)

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

CURRENT COMMITTEE

Criminal Justice

SIMILAR BILLS

BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS

BILL NUMBER:	HB 0431
SPONSOR:	Representative Baker

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 17, 2023
LEAD AGENCY ANALYST:	Lori Mizell
ADDITIONAL ANALYST(S):	Chad Brown, Alan Moses, Health Faulkner
LEGAL ANALYST:	Phil Lindley
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Prohibiting a person 24 years of age or older from soliciting a person 16 or 17 years of age in writing to commit a lewd or lascivious act, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION: Section 847.0135(3), F.S., prohibits a person from using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission, to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child. Under chapter 847, "child" means any person, whose identity is known or unknown, younger than 18 years of age. This section would include a 16 or 17 year old victim, but is specific only to electronic/computer communications.

2. EFFECT OF THE BILL: Amends s. 800.04, F.S., making it a third degree felony for a person 24 or older to solicit a 16 or 17 year old in writing to commit a lewd or lascivious act. All offenses under s. 800.04, F.S., are registerable under sexual offender registration laws, so a person with a conviction or withhold of adjudication for this offense will be subject to lifetime sexual offender registration under s. 943.0435, F.S. A conviction or withhold of adjudication for this offense will also be a predicate offense to the second strike law in the Florida Sexual Predators Act (s. 775.21, F.S.).

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number:	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	
Board Purpose:	

Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☒ N ☐

Revenues:	
Expenditures:	Increases the number of people required to register as sexual offenders and predators in Florida, which increases the volume of in-person registration at sheriffs' offices and address verifications required of law enforcement around Florida and will have an indeterminate financial impact.
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☐

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☐

Does the bill increase taxes, fees or fines?	
--	--

Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	This bill has minimal impact to IT. The estimated time to complete the changes required is about 16 hours with an estimated cost of \$1,360.
--	--

FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	
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LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
--	--

ADDITIONAL COMMENTS

- Because Florida's sexual offender registration laws are retroactive, if passed, this bill will require the department to review approximately 398 records associated with out of state convictions to determine if persons previously reviewed with a conviction for an out of state crime involving written solicitation of a 16 or 17-year-old in the manner defined would now be required to register in Florida as a sexual offender or sexual predator.
- The amount of time needed to review the 398 records will vary based on the complexity of each record. While the impact of this bill does not necessitate additional FTE or other resources at this time, this bill in combination with other bills could rise to the level requiring additional staffing and other resources.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 568

INTRODUCER: Senators Rodriguez and Hooper

SUBJECT: Assault or Battery on Hospital Personnel

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Pre-meeting
2. _____	_____	HP	_____
3. _____	_____	RC	_____

I. Summary:

SB 568 amends s. 784.07, F.S., which reclassifies the misdemeanor or felony degrees of assault and battery offenses if such offenses are knowingly committed against a law enforcement officer, firefighter, or other specified persons. The bill defines the term “hospital personnel” and adds such personnel to the list of specified persons protected under that section of statute. The reclassification of the offense has the effect of increasing the maximum sentence that may be imposed for the offense.

The Legislature’s Office of Economic and Demographic Research preliminarily estimates that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

Hospitals

Hospitals are licensed by the Agency for Healthcare Administration (AHCA) under ch. 395, F.S., and the general licensure provisions of part II of ch. 408, F.S. A hospital is an establishment that:

- Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals who require diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

- Regularly makes available at least clinical laboratory services, diagnostic x-ray services, and treatment facilities for surgery or obstetrical care, or other definitive treatment of similar extent.¹

Hospitals in Florida employ approximately 295,881 individuals and 63,617 medical staff.² Hospitals employ individuals in a number of occupations, including healthcare practitioners, healthcare support, office and administrative staff, janitorial and maintenance, food preparation and service, community and social services, business and financial operations, information technology, and management and executive positions.³

Violence against Healthcare Personnel

Workplace violence is defined by the Occupational Safety and Health Administration as any act or threat of physical violence, harassment, intimidation, or other disruptive behavior that occurs at the work site.⁴ The impact of workplace violence can range from psychological issues to physical injury, or even death.⁵ There are four types of workplace violence:

- The perpetrator has no association with the workplace or employees;
- The perpetrator is a customer or patient of the workplace or employee;
- The perpetrator is a current or former employee of the workplace; and
- The perpetrator has a personal relationship with the employee but not with the workplace.⁶

The second type of violence, usually committed by patients, their families, or their friends, is the most common type of violence against healthcare employees.⁷ Hospital settings create extreme levels of stress for patients, their families and friends, as well as employees of the institution.⁸ Fear, illness, and emotional circumstances contribute to agitation and aggression from patients.

¹ Section 395.002(12), F.S. The term “hospital” does not include an institution conducted by adherents of a well-recognized church or religious denomination that depends exclusively on prayer or spiritual means to heal, care for, or treat any person.

² Florida Health Care Association, *2022 Directory of Hospitals*, p. 9, available at https://www.floridahospitalassociation-digital.com/fhad/2022_fha_directory_of_hospitals/MobilePagedReplica.action?pm=2&folio=8#pg9 (last visited on March 6, 2023).

³ Becker’s Hospital Review, *What Occupations Make up the Hospital Workforce?* (April 2, 2014), available at <https://www.beckershospitalreview.com/hr/what-occupations-make-up-the-hospital-workforce.html> (last visited on March 6, 2023).

⁴ U.S. Department of Labor, Occupational Safety and Health Administration, *Workplace Violence*, available at <https://www.osha.gov/workplace-violence#:~:text=Workplace%20violence%20is%20any%20act,%2C%20clients%2C%20customers%20and%20visitors> (last visited on March 6, 2023).

⁵ Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Occupational Violence*, (last rev. Sept. 22, 2020), available at <https://www.cdc.gov/niosh/topics/violence/default.html> (last visited on March 6, 2023).

⁶ James P. Phillips, M.D., *Workplace Violence against Health Care Workers in the United States*, NEW ENGLAND J OF MEDICINE, 374(17) (April 28, 2016), pp. 1662, available at https://www.researchgate.net/publication/301686568_Workplace_Violence_against_Health_Care_Workers_in_the_United_States (last visited on March 6, 2023).

⁷ *Supra* n. 6 at p. 1663.

⁸ Wallace Stephens, *Violence against Healthcare Workers: A Rising Epidemic*, AM J OF MANAGED CARE (May 12, 2019), available at <https://www.ajmc.com/view/violence-against-healthcare-workers-a-rising-epidemic> (last visited on March 6, 2023).

Additionally, substance abuse, mental illness, or drug-seeking habits may contribute to such workplace violence.⁹

Healthcare workers accounted for 73 percent of all nonfatal workplace injuries and illnesses due to violence in 2018.¹⁰ A 2017 report commissioned by the American Hospital Association estimated that violence against hospital employees resulted in \$429 million in medical care, staffing, indemnity, and other costs.¹¹

Workplace violence committed against healthcare workers is typically underreported. Healthcare workers do not formally report all incidents for a variety of reasons, such as no serious injury was suffered, inconvenience, and the perception that violence comes with the job.¹² In fact, a study conducted in 2000, found that 82 percent of U.S. nurses had been assaulted at least once during their careers and 73 percent believed that assault was a part of their jobs.¹³ The American College of Emergency Physicians reported the findings of a 2018 survey which found that 47 percent of emergency room physicians had been physically assaulted at work but only 3 percent pressed charges.¹⁴ Additionally, employers may not always accurately report incidents of workplace violence.

Assault and Battery

Assault and Aggravated Assault

Section 784.011, F.S., provides that it is a second degree misdemeanor¹⁵ to commit an assault, which is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

Section 784.021, F.S., provides that an aggravated assault is an assault:

- With a deadly weapon¹⁶ without intent to kill; or

⁹ Ashleigh Watson, M.D., Mohammad Jafari, HBSc, and Ali Seifi, M.D., *The Persistent Pandemic of Violence against Health Care Workers*, AM J OF MANAGED CARE 26(12) (December 11, 2020), pp. e377-e379, available at <https://www.ajmc.com/view/the-persistent-pandemic-of-violence-against-health-care-workers> (last visited on March 6, 2023).

¹⁰ U.S. Bureau of Labor Statistics, *Fact Sheet: Workplace Violence in Healthcare, 2018*, (April 2020), available at <https://www.bls.gov/iif/factsheets/workplace-violence-healthcare-2018.htm> (last visited on March 6, 2023).

¹¹ Jill Van Den Bos, ASA, MAAA et al., *Cost of Community Violence to Hospitals and Health Systems*, (July 26, 2017), p. 2, available at <https://www.aha.org/system/files/2018-01/community-violence-report.pdf> (last visited on March 6, 2023).

¹² U.S. Government Accountability Office, *Workplace Health and Safety: Additional Efforts Needed to Help Protect Health Care Workers from Workplace Violence*, (March 2016), pp. 16-18, available at <https://www.gao.gov/assets/680/675858.pdf> (last visited on March 6, 2023).

¹³ Watson, *supra* note 9.

¹⁴ American College of Emergency Physicians, *Violence in the Emergency Department: Resources for a Safer Workplace*, available at <https://www.acep.org/administration/violence-in-the-emergency-department-resources-for-a-safer-workplace/> (last visited on March 6, 2023).

¹⁵ A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

¹⁶ When undefined in statute, Florida courts have defined a “deadly weapon” as an instrument that will likely cause death or great bodily harm when used in the ordinary and usual manner contemplated by its design or an object that is used or threatened to be used in a way likely to produce death or great bodily harm. *See Brown v. State*, 86 So.3d 569, 571 (Fla. 5th DCA 2012).

- With an intent to commit a felony.

Aggravated assault is a third degree felony¹⁷ and is ranked in Level 6 of the Criminal Punishment Code offense severity level ranking chart.¹⁸

Battery and Aggravated Battery

Section 784.03, F.S., provides that the offense of battery occurs when a person:

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.

Generally, a battery under this statute is punishable as a first degree misdemeanor¹⁹ but a person commits a third degree felony if he or she has one prior conviction for battery, aggravated battery, or felony battery and commits any second or subsequent battery.²⁰

Section 784.045, F.S., provides that a person commits aggravated battery who, in committing battery:

- Intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement;
- Uses a deadly weapon; or
- Knows or should have known that the victim of the battery was pregnant at the time of the offense.

Aggravated battery is a second degree felony and is ranked in Level 7 of the Criminal Punishment Code offense severity level ranking chart.²¹

Assault or Battery on a Law Enforcement Officers or Other Specified Professional

Section 784.07(2), F.S., reclassifies the misdemeanor or felony degree of assault, aggravated assault, battery, and aggravated battery when a person is charged with knowingly committing any of these offenses upon an officer or employee described as follows while that officer or employee is engaged in the lawful performance of his or her duties:

- A law enforcement officer;
- A firefighter;
- An emergency medical care provider;
- A railroad special officer;
- A traffic accident investigation officer;
- A nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and

¹⁷ A third degree felony is punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

¹⁸ Section 921.0022(3)(g), F.S.

¹⁹ A first degree misdemeanor is punishable by not more than a year in county jail and a fine not exceeding \$1,000. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

²⁰ Section 784.03(2), F.S.

²¹ Section 921.0022(3)(g), F.S. A second degree felony is punishable by not more than 15 years in state prison and a fine of up to \$10,000. Sections 775.082(3)(d) and 775.083(1)(b), F.S.

engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI;

- A law enforcement explorer;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- A person licensed as a security officer and wearing a uniform bearing at least one patch or emblem that is visible at all times and clearly identifies the person's employing agency and that the person is a licensed security officer;
- A security officer employed by the board of trustees of a community college; or
- A public transit employee or agent.

The reclassification of the degree of the offense is as follows:

- In the case of assault, from a second degree misdemeanor to a first degree misdemeanor;
- In the case of battery, from a first degree misdemeanor to a third degree felony;
- In the case of aggravated assault, from a third degree felony to a second degree felony, and any person convicted of aggravated assault upon a law enforcement officer is subject to a mandatory three-year minimum term of imprisonment; and
- In the case of aggravated battery, from a second degree felony to a first degree felony,²² and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.²³

Further, if the person, during the commission of a battery subject to reclassification as a third degree felony, possessed:

- A firearm or destructive device, the person is subject to a mandatory minimum term of imprisonment of three years; or
- A semiautomatic firearm and its high-capacity detachable box magazine or a machine gun, the person is subject to a mandatory minimum term of imprisonment of eight years.²⁴

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.²⁵

²² A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082(3)(b) and 775.083(1)(b), F.S.

²³ Section 784.07(2), F.S.

²⁴ Section 784.07(3)(a) and (b), F.S. Additionally, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release, prior to serving the minimum sentence. Section 784.07(3), F.S.

²⁵ Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

III. Effect of Proposed Changes:

The bill amends s. 784.07, F.S., to reclassify the degree of the offense when an individual knowingly commits an assault or battery against hospital personnel while that hospital personnel is engaged in the lawful performance of his or her duties. The bill defines “hospital personnel” as a health care practitioner as defined in s. 456.001, F.S.,²⁶ an employee, an agent, or a volunteer who is employed, under contract, or otherwise authorized by a hospital, as defined in s. 395.002, F.S.,²⁷ to perform duties directly associated with the care and treatment rendered by any department of a hospital or with the security thereof.

The offenses are reclassified as follows:

- In the case of assault, from a second degree misdemeanor to a first degree misdemeanor;
- In the case of battery, from a first degree misdemeanor to a third degree felony;
- In the case of aggravated assault, from a third degree felony to a second degree felony; and
- In the case of aggravated battery, from a second degree felony to a first degree felony.

The reclassification of the offense has the effect of increasing the maximum sentence that may be imposed for the offense, as noted above.

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁶ Section 456.001, F.S., defines “health care practitioner” as any person licensed under ch. 457, F.S. (acupuncture); ch. 458, F.S. (medical practice); ch. 459, F.S. (osteopathic medicine); ch. 460, F.S. (chiropractic medicine); ch. 461, F.S. (podiatric medicine); ch. 462, F.S. (naturopathy); ch. 463, F.S. (optometry); ch. 464 F.S., (nursing); ch. 465, F.S. (pharmacy); ch. 466, F.S. (dentistry); ch. 467, F.S. (midwifery); parts I, II, III, V, X, XIII, or XIV of ch. 468 F.S., (speech-language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition practice, athletic trainers, or orthotics, prosthetics, and pedorthics, respectively); ch. 478, F.S. (electrolysis); ch. 480, F.S. (massage therapy); ch. 483, F.S. (clinical laboratory personnel or medical physicists); ch. 484, F.S. (optical devices and hearing aids); ch. 486, F.S. (physical therapy practice); ch. 490, F.S. (psychological services); or ch. 491, F.S. (clinical, counseling, and psychotherapy services).

²⁷ Section 395.002, F.S., is the definitions section in part 1 of ch. 395, F.S., relating to hospitals and other licensed facilities.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimates that the House companion bill (HB 825), which is similar to SB 568, will have a "positive insignificant" prison bed impact (an increase of 10 or fewer prison beds).²⁸

The EDR provides the following information relevant to its estimate:

Large numbers come to prison each year with these offenses as primary. In FY 18-19, there were 400 new commitments to prison for these offenses and in FY 19-20, there were 286 new commitments. In FY 20-21, there were 260 new commitments, and there were 320 new commitments in FY 21-22. It is unknown how large the hospital personnel victim pool is, but simple battery is the most common felony offense and the incarceration rate is low (16.2% in FY 18-19, 14.4% in FY 19-20, 16.7% in FY 20-21, and 14.4% in FY 21-22). Furthermore, emergency medical care providers are already included in the existing law. CJIC has heard bills with the same provisions in prior years and found them to have an insignificant impact due to low volume.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁸ *HB 825 – Assault or Battery on Hospital Personnel (Similar SB 568)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

²⁹ *Id.*

VIII. Statutes Affected:

This bill substantially amends section 784.07 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Rodriguez

40-01257-23

2023568__

A bill to be entitled

An act relating to assault or battery on hospital personnel; amending s. 784.07, F.S.; defining the term "hospital personnel"; providing enhanced criminal penalties for persons who knowingly commit assault or battery upon hospital personnel; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, hospital personnel, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(1) As used in this section, the term:

(a) "Emergency medical care provider" means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, medical director as defined in s. 401.23, or any person authorized by an emergency medical service licensed under chapter 401 who is engaged in the performance of his or her duties. The term "emergency medical care provider" also includes physicians, employees, agents, or volunteers of hospitals as defined in chapter 395, who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital's emergency department or the

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security thereof.

(b) "Firefighter" means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(c) "Hospital personnel" means a health care practitioner as defined in s. 456.001 or an employee, an agent, or a volunteer who is employed by, under contract with, or otherwise authorized by a hospital as defined in s. 395.002 to perform duties directly associated with the care and treatment rendered by any department of a hospital or with the security thereof.

(d) ~~(e)~~ "Law enforcement explorer" means any person who is a current member of a law enforcement agency's explorer program and who is performing functions other than those required to be performed by sworn law enforcement officers on behalf of a law enforcement agency while under the direct physical supervision of a sworn officer of that agency and wearing a uniform that bears at least one patch that clearly identifies the law enforcement agency that he or she represents.

(e) ~~(d)~~ "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Florida Commission on Offender Review; a federal law

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enforcement officer as defined in s. 901.1505; and law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the Department of Law Enforcement.

~~(f)(e)~~ "Public transit employees or agents" means bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(1).

~~(g)(f)~~ "Railroad special officer" means a person employed by a Class I, Class II, or Class III railroad and appointed or pending appointment by the Governor pursuant to s. 354.01.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, hospital personnel, a railroad special officer, a traffic accident investigation officer as described in s. 316.640, a nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, a law enforcement explorer, a traffic infraction enforcement officer as described in s. 316.640, a parking enforcement specialist as defined in s. 316.640, a person licensed as a security officer as defined in s. 493.6101 and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer, or a security officer employed by the

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board of trustees of a community college, while the officer, firefighter, emergency medical care provider, hospital personnel, railroad special officer, traffic accident investigation officer, traffic infraction enforcement officer, inspector, analyst, operator, law enforcement explorer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree. Notwithstanding any other provision of law, a person convicted of battery upon a law enforcement officer committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01 shall be sentenced to a minimum term of imprisonment of 6 months.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such

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person possessed:

(a) A "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

Section 2. This act shall take effect October 1, 2023.

HB 825 – Assault or Battery on Hospital Personnel (Similar SB 568)

This bill adds “**hospital personnel**” to s. 784.07, F.S., which addresses assault or battery of law enforcement officers, firefighters, emergency medical providers, public transit employees, etc. Additional language states that “‘hospital personnel’ means a health care practitioner as defined in s. 456.001, F.S., an employee, an agent, or a volunteer who is employed, under contract, or otherwise authorized by a hospital, as defined in s. 395.002, F.S. to perform duties directly associated with the care and treatment rendered by any department of a hospital or with the security thereof.”

Offenses under this statute are reclassified as follows:

Assault increased from 2nd degree misdemeanor to 1st degree misdemeanor;

Battery from 1st degree misdemeanor to 3rd degree felony

Aggravated assault from 3rd degree felony to 2nd degree felony

Aggravated battery from 2nd degree felony to 1st degree felony

Large numbers come to prison each year with these offenses as primary. In FY 18-19, there were 400 new commitments to prison for these offenses and in FY 19-20, there were 286 new commitments. In FY 20-21, there were 260 new commitments, and there were 320 new commitments in FY 21-22. It is unknown how large the hospital personnel victim pool is, but simple battery is the most common felony offense and the incarceration rate is low (16.2% in FY 18-19, 14.4% in FY 19-20, 16.7% in FY 20-21, and 14.4% in FY 21-22). Furthermore, emergency medical care providers are already included in the existing law. CJIC has heard bills with the same provisions in prior years and found them to have an insignificant impact due to low volume.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: Senate

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 656

INTRODUCER: Senator Burgess

SUBJECT: Unlawful Possession of Firearms, Ammunition, or Electric Weapons or Devices

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cella	Stokes	CJ	Pre-meeting
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 656 provides a consistent application of s. 790.23(1)(b) and (d), F.S., with s. 985.35(7), F.S., by clarifying that an adjudication of delinquency for an offense classified as a felony shall disqualify a person from lawfully possessing a firearm until such person reaches 24 years of age, unless the person's criminal history record for that offense has been expunged pursuant to s. 943.0515(1)(b), F.S.

Specifically, the bill amends s. 790.23(1)(b) and (d), F.S., by removing the term "found to have committed a delinquent act" and inserting the term "adjudicated delinquent" which is consistent with the terminology in s. 985.35(7), F.S.

This will provide clarity in the application of s. 790.23(1)(b) and (d), F.S., to persons who committed a delinquent act that is a felony offense and who was adjudicated delinquent.

Any potential fiscal impact from the bill is currently unknown.

The bill becomes effective on July 1, 2023.

II. Present Situation:

Section 790.23, F.S., provides that it is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

- Convicted of a felony in the courts of this state;
- Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age;

- Convicted of or found to have committed a crime against the United States which is designated as a felony;
- Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding one year and such person is under 24 years of age; or
- Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding one year.¹

Section 790.23, F.S., does not apply to a person:

- Who was convicted of a felony whose civil rights and firearm authority have been restored; or
- Whose criminal history record has been expunged pursuant to s. 943.0515(1)(b), F.S.²

An adult who is convicted of a felony offense and therefore has lost his or her civil rights and the right to possess a firearm pursuant to s. 790.23, F.S., may have “firearm authority” restored.³ It is within the executive branch’s discretionary authority to grant a full or partial restoration of civil rights; therefore, whether a person re-gains firearm authority is entirely up to the Governor.⁴

Juvenile Delinquency Matters

Section 985.03(9), F.S., provides that “[c]hild who has been found to have committed a delinquent act” means a child who is “found” by delinquency court to have committed a violation of law or to be in direct or indirect contempt of court. Section 985.03(53), F.S., defines “violation of law” or “delinquent act” as a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

In a juvenile delinquency proceeding, a “finding” that the child has committed a delinquent act or violation of law can occur whether the court adjudicates the child or the court withholds adjudication of delinquency.⁵ A violation of s. 790.23(1)(b) or (d), F.S., requires only that the person has been “found” to have committed the prior felony offense that triggers the firearm disability in s. 790.23, F.S. There is no requirement in s. 790.23 (1)(b) or (d), F.S., that the person be adjudicated delinquent.

However, s. 985.35(7), F.S., appears to require that the person have been adjudicated delinquent of a felony offense for s. 790.23(1)(b) or (d), F.S., to apply, not just be the subject of a “finding”

¹ Section 790.23(1), F.S.

² Section 790.23(2), F.S.: The offenses are second degree felonies punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

³ Section 790.23(2)(a), F.S. While there is no similar provision for juvenile delinquency cases, a person can apply to have his or her juvenile record expunged.

⁴ *Parker v. State*, 263 So.3d 192 (Fla. 5th DCA 2018).

⁵ If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency. Section 985.35(4), F.S.

by the court that he or she committed the offense. Section 985.35(7), F.S., plainly states that “[a]n ‘adjudication of delinquency’ for an offense classified as a felony shall disqualify a person from lawfully possessing a firearm until such person reaches 24 years of age, unless the person’s criminal history record for that offense has been expunged pursuant to s. 943.0515(1)(b), F.S.” Therefore it appears that s. 790.23(1)(b) and (d), F.S., are not consistent with s. 985.35(7), F.S.

III. Effect of Proposed Changes:

The bill provides a consistent application of s. 790.23(1)(b) and (d), F.S., with s. 985.35(7), F.S., by clarifying that an adjudication of delinquency for an offense classified as a felony shall disqualify a person from lawfully possessing a firearm until such person reaches 24 years of age, unless the person’s criminal history record for that offense has been expunged pursuant to s. 943.0515(1)(b), F.S.

In other words, the prior adjudication of delinquency is a qualifying juvenile offense if it would be a felony offense if committed by an adult. Such prior adjudication of delinquency may form the basis for charges under s. 790.23, F.S.

Specifically, the bill amends s. 790.23(1)(b) and (d), F.S., by removing the term “found to have committed a delinquent act” and inserting the term “adjudicated delinquent” which is identical to the terminology used in s. 985.35(7), F.S.

The bill becomes effective on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Although it is possible that the bill could result in some fiscal impact to the state, the impact is not known at this time as the Criminal Justice Conference has not yet considered the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.23 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Burgess

23-01086-23

2023656__

A bill to be entitled

An act relating to unlawful possession of firearms, ammunition, or electric weapons or devices; amending s. 790.23, F.S.; revising the circumstances under which it is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 790.23, Florida Statutes, is amended to read:

790.23 Felons and delinquents; possession of firearms, ammunition, or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony in the courts of this state;

(b) Adjudicated delinquent ~~Found~~, in the courts of this state, ~~if the to have committed a delinquent act that~~ would be a felony if committed by an adult and such person is under 24 years of age;

(c) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d) Adjudicated ~~Found to have committed a delinquent act in~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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another state, territory, or country for committing an act that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year and such person is under 24 years of age; or

(e) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section does ~~shall~~ not apply to a person:

(a) Convicted of a felony whose civil rights and firearm authority have been restored.

(b) Whose criminal history record has been expunged pursuant to s. 943.0515(1)(b).

(3) Except as otherwise provided in subsection (4), any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Notwithstanding the provisions of s. 874.04, if the offense described in subsection (1) has been committed by a person who has previously qualified or currently qualifies for the penalty enhancements provided for in s. 874.04, the offense is a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect July 1, 2023.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 676

INTRODUCER: Senator Grall

SUBJECT: Background Screenings

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Pre-meeting
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

I. Summary:

SB 676 modifies current background screening standards and requirements for individuals who work with children and other vulnerable persons. The bill:

- Requires a Level 2 security background investigation of current or prospective employees to include an employment history check and a search of the sexual predator and sexual offender registries and the child abuse and neglect registry of any state the individual resided during the previous five years;
- Authorizes qualified entities to conduct background screenings using the Care Provider Background Screening Clearinghouse (Clearinghouse) beginning January 1, 2025, if such entities choose to do so;
- Requires a qualified entity that chooses to use the Clearinghouse to comply with all Clearinghouse requirements and processes for background screening required by law;
- Revises the background screening standards for individuals who have direct contact with a student in a district school system, a charter school, or a private school that participates in a state scholarship program by replacing the list of disqualifying offenses with the level 2 screening standard in s. 435.04(2), F.S.;
- Requires Level 2 screenings for youth athletic coaches (currently, Level 1 screenings) and removes the 20 hour minimum work requirement; and
- Requires that noninstructional contractors, with access to school grounds when students are present, will have to meet the level 2 screening standard in s. 435.04(2), F.S., instead of the current list of nine disqualifying offenses.

The bill also provides appropriations of \$285,367 in recurring funds and \$581,064 in non-recurring funds to the Agency for Health Care Administration (AHCA) for the purposes of providing staff for the Clearinghouse to support additional background screenings for entities using the Clearinghouse. Further, the Florida Department of Law Enforcement (FDLE) notes that the bill may have a workload impact on the department. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Individuals who work with children and other vulnerable persons are required to undergo criminal background screening. Depending on the role of the individual or the agency responsible, the individual may be screened by the FDLE through the Volunteer Employee Criminal History System (VECHS), the Florida Shared School Results (FSSR) system, or the AHCA's Clearinghouse. However, screening results are only shared among employers through the FSSR system or the AHCA's Clearinghouse.

Employee Background Screenings

Florida law provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.¹

Current law establishes standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the FDLE and a check of the Dru Sjodin National Sex Offender Public Website,² and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through the FDLE's website, which provides immediate results.³

A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.⁴

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.⁵ Information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.⁶

For both level 1 and 2 screenings, the employer must submit the information necessary for screening to the FDLE within five working days after receiving it.⁷ Additionally, for both levels

¹ Chapter 435, F.S.

² The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nsopw.gov/> (last visited on March 8, 2023).

³ Florida Department of Law Enforcement, State of Florida Criminal History Records Check, available at <https://www.fdle.state.fl.us/Criminal-History-Records/Record-Check> (last visited on March 8, 2023).

⁴ Section 435.04, F.S.

⁵ Section 435.05(1)(a), F.S.

⁶ Sections 435.03(1) and 435.04(1)(a), F.S.

⁷ Section 435.05(1)(b)-(c), F.S.

of screening, the FDLE must perform a criminal history record check of its records.⁸ For a level 1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.⁹ For level 2 screenings, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.¹⁰ As with a level 1 screening, the FDLE responds to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information. If the employer or agency finds that an individual has a history containing one of these offenses, it must disqualify that individual from employment.

The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.¹¹

Disqualifying Offenses

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:¹²

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.

⁸ *Id.*

⁹ Section 435.05(1)(b), F.S.

¹⁰ Section 435.05(1)(c), F.S.

¹¹ Section 435.05(1)(d), F.S.

¹² Section 435.04(2), F.S.

- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.

Exemption from Disqualification

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency to exempt applicants from that disqualification under certain circumstances:¹³

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a disqualifying felony; or
- The applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,¹⁴ career offender,¹⁵ or sexual offender (unless not required to register)¹⁶ cannot ever be exempted from disqualification.¹⁷

Current law does not prohibit a person from becoming certified as a teacher if ineligible for an exemption from a disqualifying offense under s. 435.07, F.S.

Volunteer Employee Criminal History System (VECHS)

The VECHS was enacted in 1999 to implement the National Child Protection Act (NCPA).¹⁸ The VECHS provides state and national criminal history record information on applicants, employees, and volunteers to qualified entities. A "qualified entity" is a business or organization that provides care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.¹⁹ Qualified entities that register with the FDLE may screen personnel and employees through the submission of fingerprints. Each request

¹³ Section 435.07(1), F.S.

¹⁴ Section 775.21, F.S.

¹⁵ Section 775.261, F.S.

¹⁶ Section 943.0435, F.S.

¹⁷ Section 435.07(4)(b), F.S.

¹⁸ Pub. L. 103-209 (Dec. 20, 1993). See Florida Department of Law Enforcement, *Volunteer and Employee Criminal History System*, available at <https://www.fdle.state.fl.us/Background-Checks> (last visited on March 8, 2023).

¹⁹ Section 943.0542(1), F.S.

must be voluntary and conform to the requirements of the National Child Protection Act of 1993, as amended.²⁰ Organizations that are statutorily required to obtain criminal history record checks on their employees or volunteers may not use VECHS.²¹

Care Provider Background Screening Clearinghouse (Clearinghouse)

Many different agencies, programs, employers, and professionals serve vulnerable populations in Florida. Personnel working with those entities who serve vulnerable persons are subject to background screening. However, due to restrictions placed on the sharing of criminal history information, persons who work for more than one agency or employer or change jobs, or wish to volunteer for such an entity, often must undergo a new and duplicative background screening and fingerprinting.

Policies imposed by the FBI prevent the sharing of criminal history information except within a given “program.” Since each regulatory area is covered by a different controlling statute and screenings are done for separate purposes, the screenings have been viewed as separate “program” areas and sharing of results has not been allowed.²² In addition, screenings are only as good as the date they are run. Arrests or convictions occurring after the screening are not known until the person is rescreened or self-reports.

In 2012, the Legislature created the Clearinghouse to create a single “program” of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.²³ Designated agencies include:

- AHCA;
- Department of Health;
- Department of Children and Families;
- Department of Elder Affairs;
- Agency for Persons with Disabilities;
- Department of Education (DOE);
- Each district unit under s. 1001.30, F.S.;
- Special district units under s. 1011.24, F.S.;
- Florida School for the Deaf and the Blind under s. 1002.36, F.S.;
- Florida Virtual School under s. 1002.37, F.S.;
- Virtual instruction programs under s. 1002.45, F.S.;
- Charter schools under s. 1002.33, F.S.;
- Hope operators under s. 1002.333, F.S.;
- Private schools participating in an educational scholarship program established pursuant to ch. 1002, F.S.;
- Alternative schools under s. 1008.341, F.S.;
- Regional workforce boards providing services as defined in s. 445.002(3), F.S.; and

²⁰ Section 943.0542(2), F.S.

²¹ Florida Department of Law Enforcement, *About VECHS*, available at <https://www.fdle.state.fl.us/Background-Checks/About-Us> (last visited on March 8, 2023).

²² See Pub. L. No. 92-544 (Oct. 25, 1972); 28 C.F.R. Part 20; 28 C.F.R. s. 50.12.

²³ Chapter 2012-73, L.O.F.

- Local licensing agencies approved pursuant to s. 402.307, F.S., when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.²⁴

Once a person's screening record is in the Clearinghouse, that person will avoid the need for any future state screens and related fees.²⁵ Final implementation of the Clearinghouse by the designated state agencies was required by October 1, 2013. The Clearinghouse was initially implemented by the AHCA on January 1, 2013.

School districts, lab schools, the Florida School for the Deaf and the Blind, the Florida Virtual School, virtual instruction providers, charter schools, hope operators, early learning coalitions, and private schools participating in an educational scholarship program (education entities, collectively) currently using VECHS to conduct background screenings are required to use the Clearinghouse beginning in January 1, 2023. Education entities must be fully implemented into the Clearinghouse by January 1, 2024, or by a date determined by the AHCA.

Qualified entities are not currently required to conduct background screenings through the Clearinghouse.

Background Screening of Individuals at Schools

Individuals who work in or provide services to school districts, charter schools, alternative schools, and private schools participating in state school choice scholarship programs²⁶ must undergo a fingerprint based background screening before being permitted access to school grounds.²⁷ The individuals who must undergo background screening fall under three personnel classifications: instructional and noninstructional personnel;²⁸ noninstructional school district employees and contracted personnel;²⁹ and noninstructional contractors.³⁰ Candidates for educator certification must also undergo background screening.³¹

The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.³² Because they are more likely to have direct contact with students, candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel must be screened

²⁴ Section 435.02(5), F.S. (definition of "specified agency").

²⁵ Agency for Health Care Administration, *Clearinghouse Renewals*, available at https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Renewals.shtml (last visited on March 8, 2023).

²⁶ The background screenings conducted by such private schools are conducted through the VECHS.

²⁷ Sections 1002.421, 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

²⁸ Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

²⁹ Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

³⁰ Noninstructional contractors are vendors or contractors who are not school district employees, are permitted access to school grounds when students are present, and have little or no direct contact with students. Section 1012.467(1)(a), F.S.

³¹ Sections 1012.315, 1012.32(2)(a), and 1012.56(10)(a), F.S.

³² See ss. 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

against a distinct list of 52 disqualifying offenses applicable to employment with public schools and school districts.³³ Athletic coaches employed by public schools must be certified by the DOE and are subject to the same background screening standards as other individuals seeking certification.³⁴ In contrast, noninstructional contractors, individuals who are not school district employees and have no direct contact with students, are screened against a statutory list of 12 disqualifying offenses.³⁵ These background screenings are conducted through the Clearinghouse.

Screening results for contractors, both those who have direct contact with students and those who simply have access to school property when students are present, are entered into the FSSR system,³⁶ which allows the results to be shared with other school districts through a secure internet website or other secure electronic means. However, the screening results for instructional personnel hired or contracted by an approved virtual instruction provider are not included in the FSSR system. As a result, these individuals must often undergo background screening by multiple school districts using the provider's services.³⁷

In addition to fingerprint-based background screening, before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in a state school choice scholarship program must:³⁸

- Conduct an employment history check of the individual's previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- Screen the individual through use of the DOE Professional Practices' Database of Disciplinary Actions Against Educators, Teacher Certification Database, and the disqualification list;³⁹ and
- Document the findings.

The disqualification list is maintained by the DOE and includes:⁴⁰

- The identity of any person who has been permanently denied an educator certificate or whose certificate was permanently revoked and has been placed on the list as directed by the Education Practices Commission.⁴¹
- The identity of any person who has been permanently disqualified by the Commissioner as an owner or operator of a private school participating in a state scholarship program.

³³ Sections 1012.315, 1012.32, and 1012.465, F.S.

³⁴ Section 1012.55(2), F.S. See also 1012.56, F.S.; Rule 6A-4.004(4), F.S.

³⁵ See s. 1012.467(2)(b), F.S. The law references eight specific offenses plus crimes involving lewd and lascivious behavior in ch. 800, F.S., which includes four such offenses. Id.

³⁶ Florida Department of Law Enforcement, *Jessica Lunsford Act Information*, available at <http://www.fdle.state.fl.us/JLA/Jessica-Lunsford-ActInformation.aspx> (last visited on March 8, 2023).

³⁷ Section 1012.467(7)(a), F.S.

³⁸ Section 1002.33(12)(g)4., F.S. (charter schools), s. 1002.421(1)(o), F.S. (private schools), and s. 1012.27(6), F.S. (school districts).

³⁹ See s. 1001.10(4)(b), F.S.; see also Florida Department of Education, *Employment Screening Tools*, available at <https://www.fldoe.org/teaching/professional-practices/employment-screening-tools.shtml> (last visited on March 8, 2023) (includes links to the Professional Practices' Database of Disciplinary Actions Against Educators and the Teacher Certification Database).

⁴⁰ Section 1001.10(4)(b), F.S.

⁴¹ Section 1012.795, F.S.

- The identity of any person who has been terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student.
- The identity of any person who is ineligible for educator certification or employment under s. 1012.315, F.S.

An individual on the disqualification list is prohibited from serving or applying to serve as an employee or contracted personnel at any public school, charter school, or private school participating in a state scholarship program. Any individual who knowingly violates this prohibition commits a third degree felony.⁴²

Additionally, the DOE is required to investigate complaints or allegations made against certified educators and initiate proceedings to suspend or revoke the educator's certificate if grounds exist to do so. The law specifically references certified educators employed by traditional public schools, charter schools, and private schools participating in a state school choice scholarship program, while omitting approved virtual instruction providers.⁴³

The law also requires law enforcement agencies to notify the appropriate district school superintendent, charter school governing board, private school owner or administrator, president of the Florida School for the Deaf and the Blind, or university lab school director or principal, as applicable, within 48 hours if its employee is charged with any felony or misdemeanor involving the abuse of children or sale or possession of controlled substances.⁴⁴

Upon notification by law enforcement, the principal must, within 24 hours, notify parents of enrolled students who had direct contact with the perpetrator of the arrest and include, at a minimum, the employee's name and the specific charges against him or her.⁴⁵

Employee Misconduct Reporting Policies

Each school district, charter school, and private school participating in a state scholarship program must post, at each school and on their website, if they maintain a website, their policies and procedures related to reporting alleged misconduct by instructional personnel, educational support personnel, or school administrators which affects the health, safety, or welfare of a student.⁴⁶ Additionally, the published policies and procedures must include the contact person to whom the report is made and the penalties that will be imposed for failure to report misconduct.⁴⁷

Youth Athletic Team Coaches

An independent sanctioning authority is a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in Florida which include one or more minors and

⁴² Sections 775.082 and 775.083, F.S.

⁴³ Section 1012.796(1), F.S.

⁴⁴ Section 1012.797, F.S.

⁴⁵ *Id.*

⁴⁶ Section 1006.061(2), F.S.

⁴⁷ *Id.*

are not affiliated with a private school.⁴⁸ An independent sanctioning authority must conduct a Level 1 background screening of each current and prospective athletic coach. The required background screening must also include a search of the applicant or coach's name or other identifying information against state and federal registries of sexual predators and sexual offenders.⁴⁹ An individual may not serve as a youth athletic coach⁵⁰ unless a Level 1 screening has been conducted and the screening does not result in his or her disqualification.

In 2014, the Legislature expanded background screening requirements for athletic coaches, assistant coaches, and referees of independent sanctioning authorities and allowed a background screening conducted by a commercial consumer reporting agency in compliance with federal standards to satisfy the state level requirement so long as such screening includes a Level 1 background screening and a search against the state and federal registries of sexual predators and sexual offenders to meet the requirements under s. 943.0438, F.S.⁵¹

An independent sanctioning authority must disqualify an applicant from acting as an athletic coach in Florida if he or she is disqualified by the Level 1 background screening or if his or her name appears in either registry.⁵² Within seven days of the screening, the independent sanctioning authority must provide written notification to a disqualified person advising him or her of the results.⁵³ In specified circumstances, an independent sanctioning authority may grant an exception to an applicant in accordance with s. 435.07(1)(a), F.S.⁵⁴ Examples of possible exceptions include, but are not limited to, an applicant whose criminal record includes a:⁵⁵

- Felony that occurred three or more years ago and he or she has lawfully completed or been released from confinement or supervision for the disqualifying felony;
- Misdemeanor and he or she has completed or been lawfully released from confinement or supervision for the disqualifying misdemeanor offense; or
- Felony when committed, but is now classified as a misdemeanor, and he or she has completed or been lawfully released from confinement or supervision for all requirements imposed.

The sanctioning authority must maintain documentation of the results of each person screened and the written notice provided to any disqualified person for a minimum of five years.⁵⁶

⁴⁸ Sections 1002.01 and 943.0438(1)(b), F.S.

⁴⁹ Section 943.0438(2)(a)1., F.S.

⁵⁰ "Athletic coach" means a person who is authorized by an independent sanctioning authority to work as a coach, assistant coach, or referee for 20 or more hours within a calendar year, whether for compensation or as a volunteer, for a youth athletic based team in this state; and has direct contact with one or more minors on the youth athletic team. Section 943.0438(1)(a), F.S.

⁵¹ Chapter 2014-9, L.O.F.

⁵² Section 943.0438(2)(b), F.S.

⁵³ Section 943.0438(2)(c), F.S.

⁵⁴ Section 943.0438(2)(b), F.S.

⁵⁵ Section 435.07(1), F.S.

⁵⁶ Section 943.0438(2)(d), F.S.

III. Effect of Proposed Changes:

Employee Background Screenings

The bill amends s. 435.04, F.S., to require Level 2 security background investigation of current or prospective employees to include an employment history check and a search of the sexual predator and sexual offender registries and the child abuse and neglect registry of any state the individual resided during the previous five years. The list of disqualifying offenses in this section is revised to include:

- Section 784.021, F.S., relating to aggravated assault;
- Section 784.045, F.S., relating to aggravated battery;
- Section 784.075, F.S., relating to battery on staff of a detention or commitment facility or on a juvenile probation officer;
- Section 794.08, F.S., relating to female genital mutilation; and
- Chapter 800, F.S., relating to offenses against students by authority figures.

For purposes of background screening, the bill amends s. 435.02, F.S., to provide definitions for “affiliation” and “qualified entity.”

Care Provider Background Screening Clearinghouse

The bill amends ss. 435.12, 943.05, and 943.0542, F.S., to:

- Authorize qualified entities to conduct background screenings using the Clearinghouse beginning January 1, 2025, or a date determined by the AHCA, if such entities choose to do so;
- Require a qualified entity that chooses to use the Clearinghouse to comply with all Clearinghouse requirements and processes for background screening required by law.
- Require the FDLE to retain fingerprints obtained from background screenings for the purpose of providing arrest notifications subsequent to initial background screenings of qualified entities.
- Require the FDLE to develop a method for identifying or verifying an individual through automated biometrics for federal approval.

Including qualified entities in the Clearinghouse will allow such entities to share background screening results and reduce the amount of screenings individuals must undergo in order to volunteer or work for such entities.

Youth Athletic Team Coaches

Current law requires youth athletic coaches, assistant coaches, and referees to undergo a Level 1 background screening if the coach works for more than 20 hours per year. The bill amends s. 943.0438, F.S., to revise background screening requirements to require these individuals, including managers, to undergo Level 2 screenings and removes the 20 hour minimum work requirement. This means that all youth athletic coaches, assistant coaches, managers and referees must undergo a Level 2 background screening, regardless of hours worked.

Background Screening of Individuals at Schools

The bill amends ss. 1012.315 and 1012.467, F.S., to revise the background screening standards for individuals who have direct contact with a student in a district school system, a charter school, or a private school that participates in a state scholarship program by replacing the list of disqualifying offenses with the level 2 screening standard under s. 435.04(2), F.S.

Noninstructional contractors, with access to school grounds when students are present, will also have to meet the level 2 screening standard in s. 435.04(2), F.S., instead of the current list of nine disqualifying offenses.

Appropriations

The bill provides that, for FY 2023-24, the sums of \$285,367 in recurring funds from the Health Care Trust Fund and \$581,064 in non-recurring funds from the Health Care Trust Fund are appropriated to the AHCA and five full-time equivalent positions with associated salary rate of 173,431 are authorized for the purpose of implementing this act.

Effective Date

The bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The FDLE notes the following private sector impact:

The bill will generate unknown revenue as the estimated number of individuals falling within the following four (4) areas is undetermined and at the discretion of the qualified entity:

VECHS Employees screened through the Clearinghouse

The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse is \$48 for employees who provide services to children, the elderly, or individuals with disabilities. The cost for the Florida (state) portion of a state and national criminal history record check is \$24 for employees who provide services to children, the elderly, or individuals with disabilities. Since persons screened pursuant to this bill are eligible to be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in the federal retention program, there will be no fees required by the Federal Bureau of Investigation (FBI) for federal fingerprint retention.

VECHS Volunteers screened through the Clearinghouse

The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse is \$42 for volunteers who provide services to children, the elderly, or individuals with disabilities. The cost for the Florida (state) portion of a state and national criminal history record check is \$18 for volunteers who provide services to children, the elderly, or individuals with disabilities. Since persons screened pursuant to this bill are eligible to be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.

Current and prospective athletic coaches screened through the Clearinghouse

The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse retention is \$48. These fees will go into the FDLE's Operating

Trust Fund. The cost for Florida (state-level) criminal history record checks is \$24. Since persons screened pursuant to this bill are eligible to be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.

Current and prospective athletic coaches not screened through the Clearinghouse (no fingerprint retention)

The total fiscal revenue for the Florida (state) portion of a state and national criminal history record check is \$24, which goes into FDLE's Operating Trust Fund.⁵⁷

C. Government Sector Impact:

Appropriations

The bill provides that, for FY 2023-24, the sums of \$285,367 in recurring funds from the Health Care Trust Fund and \$581,064 in non-recurring funds from the Health Care Trust Fund are appropriated to the AHCA and five full-time equivalent positions with associated salary rate of \$173,431 are authorized for the purpose of implementing this act.

FDLE

The FDLE provided the following comment regarding the potential impact of the bill on the department:

Although there is no programming required, if it is decided that VECHS entities will retain their applicants in the Clearinghouse, this bill combined with other background screening bills adds to the workload on FDLE's Biometric Identification System. FDLE is currently in the process of migrating the current system to the new generation of Biometric Identification Systems. With the state and capacity limitations of the current system, this could cause undue strain.⁵⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵⁷ 2023 FDLE Legislative Bill Analysis (SB 676) (Feb. 14, 2023), Florida Department of Law Enforcement (on file with Senate Committee on Criminal Justice). Analysis were also requested from AHCA and DOE but were not available at the time this analysis was completed.

⁵⁸ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 435.02, 435.04, 435.12, 943.0438, 943.05, 943.0542, 1012.315, and 1012.467.

This bill reenacts the following sections of the Florida Statutes: 39.821, 381.0059, 381.986, 393.0655, 397.487, 397.4871, 402.62, 408.809, 409.913, 413.011, 413.208, 430.0402, 435.03, 435.07, 456.0135, 464.018, 468.3101, 744.309, 744.474, 985.04, 985.644, 1001.10, 1001.42, 1001.51, 1002.33, 1002.333, 1012.32, 1002.36, 1002.395, 1002.421, 1002.55, 1002.61, 1002.63, 1006.20, 1012.321, 1012.468, 1012.56, 1012.795, and 1012.796.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Grall

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1 A bill to be entitled
 2 An act relating to background screenings; amending s.
 3 435.02, F.S.; defining the terms "affiliation" and
 4 "qualified entity"; amending s. 435.04, F.S.; revising
 5 level 2 screening requirements; amending s. 435.12,
 6 F.S.; deleting obsolete language; requiring the Care
 7 Provider Background Screening Clearinghouse to allow
 8 the results of certain screenings after a date certain
 9 to be shared among specified agencies and qualified
 10 entities; requiring qualified entities participating
 11 in the clearinghouse to meet certain requirements;
 12 conforming provisions to changes made by the act;
 13 amending s. 943.0438, F.S.; revising the definition of
 14 the term "athletic coach"; revising requirements
 15 relating to background screenings for independent
 16 sanctioning authorities; requiring independent
 17 sanctioning authorities to participate in the
 18 Volunteer and Employee Criminal History System;
 19 amending s. 943.05, F.S.; revising requirements for
 20 the Criminal Justice Information Program relating to
 21 fingerprint searches; requiring the program to develop
 22 a method for identifying or verifying an individual
 23 through automated biometrics; amending s. 943.0542,
 24 F.S.; requiring qualified entities to initiate all
 25 background criminal history checks through the
 26 clearinghouse after a date certain; requiring, rather
 27 than authorizing, the Department of Law Enforcement to
 28 periodically audit qualified entities; requiring
 29 qualified entities initiating background criminal

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30 history checks through the clearinghouse to comply
 31 with specified provisions; requiring that certain
 32 fingerprints be entered into the clearinghouse;
 33 providing requirements to the clearinghouse relating
 34 to such checks; amending s. 1012.315, F.S.; revising
 35 screening standard requirements for educator
 36 certification or employment in positions that require
 37 direct contact with certain students; amending s.
 38 1012.467, F.S.; revising criminal history check
 39 requirements for certain noninstructional contractors;
 40 reenacting ss. 39.821(1), 381.0059(1), 381.986(9),
 41 393.0655(5), 397.487(6), 397.4871(5) and (6)(b),
 42 402.62(3)(a), 408.809(2)(a), (3) and (4), 409.913(13),
 43 413.011(7), 413.208(2)(d) and (e), 430.0402(6),
 44 435.03(2), 435.07(4)(a), 456.0135(5), 464.018(1)(e),
 45 468.3101(1)(m), 744.309(3), 744.474(12), 985.04(6)(a),
 46 985.644(3)(a), 1002.36(7)(b), 1002.395(6)(b),
 47 1002.421(1)(e), (m), and (p), 1002.55(3)(d),
 48 1002.61(5), 1002.63(5), 1006.20(2)(e), 1012.321, and
 49 1012.468(2)(b), F.S., relating to qualifications of
 50 guardians ad litem, background screening requirements
 51 for school health services personnel, medical use of
 52 marijuana, screening of direct service providers,
 53 voluntary certification of recovery residences,
 54 recovery residence administrator certification, the
 55 Strong Families Tax Credit, background screening,
 56 oversight of the integrity of the Medicaid program,
 57 the Division of Blind Services and the Rehabilitation
 58 Council for the Blind, service providers, screening of

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59 direct service providers, level 1 screening standards,
 60 exemptions from disqualification, general background
 61 screening provisions, disciplinary actions,
 62 disciplinary grounds and actions, who may be appointed
 63 guardian of a resident ward, reasons for removal of
 64 guardian, records, personnel standards and
 65 investigation, the Florida School for the Deaf and the
 66 Blind, the Florida Tax Credit Scholarship Program,
 67 state school choice scholarship program accountability
 68 and oversight, school-year prekindergarten program
 69 delivered by private prekindergarten providers, summer
 70 prekindergarten program delivered by public schools
 71 and private prekindergarten providers, school-year
 72 prekindergarten program delivered by public schools,
 73 athletics in public K-12 schools, exceptions for
 74 certain instructional personnel from background
 75 screening requirements, and exceptions to certain
 76 fingerprinting and criminal history checks,
 77 respectively, to incorporate the amendment made to s.
 78 435.04, F.S., in references thereto; reenacting ss.
 79 1001.10(4)(b), 1001.42(6), 1001.51(12)(b),
 80 1002.33(12)(g), 1002.333(6)(d), 1002.421(1)(r),
 81 1012.32(1), 1012.56(10)(a) and (d), 1012.795(1), and
 82 1012.796(7)(i), F.S., relating to the Commissioner of
 83 Education, powers and duties of district school board,
 84 duties and responsibilities of district school
 85 superintendent, charter schools, persistently low-
 86 performing schools, state school choice scholarship
 87 program accountability and oversight, qualifications

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88 of personnel, educator certification requirements, the
 89 Education Practices Commission, and complaints against
 90 teachers and administrators, respectively, to
 91 incorporate the amendment made to s. 1012.315, F.S.,
 92 in references thereto; reenacting s. 1012.468(2) and
 93 (3)(a), F.S., relating to exceptions to certain
 94 fingerprinting and criminal history checks, to
 95 incorporate the amendment made to s. 1012.467, F.S.,
 96 in references thereto; providing an appropriation;
 97 providing an effective date.
 98
 99 Be It Enacted by the Legislature of the State of Florida:
 100
 101 Section 1. Present subsections (1) through (4), (5), and
 102 (6) of section 435.02, Florida Statutes, are redesignated as
 103 subsections (2) through (5), (7), and (8), respectively, and new
 104 subsections (1) and (6) are added to that section, to read:
 105 435.02 Definitions.—For the purposes of this chapter, the
 106 term:
 107 (1) "Affiliation" means employment by or serving as a
 108 volunteer or contractor with a qualified entity in a position
 109 for which screening is not required by law but which is allowed
 110 under the National Child Protection Act.
 111 (6) "Qualified entity" has the same meaning as provided in
 112 s. 943.0542(1)(b).
 113 Section 2. Present paragraphs (bb) through (zz) of
 114 subsection (2) of section 435.04, Florida Statutes, are
 115 redesignated as paragraphs (gg) through (eee), new paragraphs
 116 (k), (m), (n), (y), and (cc) are added to that subsection, and

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paragraphs (a), (b), and (d) of subsection (1) and present paragraphs (k) through (aa) of subsection (2) of that section are amended, to read:

435.04 Level 2 screening standards.-

(1) (a) All employees required by law to be screened pursuant to this section must undergo security background investigations as a condition of employment and continued employment which includes, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation and a search of criminal history records, sexual predator and sexual offender registries, and child abuse and neglect registries of any state in which the current or prospective employee resided during the preceding 5 years. Such background investigations, and may include local criminal records checks through local law enforcement agencies.

(b) Fingerprints submitted pursuant to this section ~~on or after July 1, 2012,~~ must be submitted electronically to the Department of Law Enforcement.

~~(d) An agency may require by rule that fingerprints submitted pursuant to this section must be submitted electronically to the Department of Law Enforcement on a date earlier than July 1, 2012.~~

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to,

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or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:

(k) Section 784.021, relating to aggravated assault.

(l) ~~(k)~~ Section 784.03, relating to battery, if the victim of the offense was a minor.

(m) Section 784.045, relating to aggravated battery.

(n) Section 784.075, relating to battery on a detention or commitment facility staff member or juvenile probation officer.

(o) ~~(l)~~ Section 787.01, relating to kidnapping.

(p) ~~(m)~~ Section 787.02, relating to false imprisonment.

(q) ~~(n)~~ Section 787.025, relating to luring or enticing a child.

(r) ~~(e)~~ Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(s) ~~(p)~~ Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(t) ~~(q)~~ Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(u) ~~(r)~~ Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(v) ~~(s)~~ Section 794.011, relating to sexual battery.

(w) ~~(t)~~ Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

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175 ~~(x)(u)~~ Section 794.05, relating to unlawful sexual activity
 176 with certain minors.
 177 (y) Section 794.08, relating to female genital mutilation.
 178 ~~(z)(v)~~ Chapter 796, relating to prostitution.
 179 ~~(aa)(w)~~ Section 798.02, relating to lewd and lascivious
 180 behavior.
 181 ~~(bb)(x)~~ Chapter 800, relating to lewdness and indecent
 182 exposure.
 183 (cc) Section 800.101, relating to offenses against students
 184 by authority figures.
 185 ~~(dd)(y)~~ Section 806.01, relating to arson.
 186 ~~(ee)(z)~~ Section 810.02, relating to burglary.
 187 ~~(ff)(aa)~~ Section 810.14, relating to voyeurism, ~~if the~~
 188 ~~offense is a felony.~~
 189 Section 3. Subsections (1) and (2) of section 435.12,
 190 Florida Statutes, are amended to read:
 191 435.12 Care Provider Background Screening Clearinghouse.—
 192 (1) The Agency for Health Care Administration in
 193 consultation with the Department of Law Enforcement shall create
 194 a secure web-based system, which shall be known as the "Care
 195 Provider Background Screening Clearinghouse" or
 196 "clearinghouse," ~~and which shall be implemented to the full~~
 197 ~~extent practicable no later than September 30, 2013, subject to~~
 198 ~~the specified agencies being funded and equipped to participate~~
 199 ~~in such program.~~ The clearinghouse shall allow the results of
 200 criminal history checks provided to the specified agencies and,
 201 beginning January 1, 2025, or a later date established by the
 202 Agency for Health Care Administration, to qualified entities
 203 participating in the clearinghouse, for screening of persons

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204 qualified as care providers under s. 943.0542 to be shared among
 205 the specified agencies and such qualified entities when a person
 206 has applied to volunteer, be employed, be licensed, or enter
 207 into a contract that requires, or has an affiliation that allows
 208 for, a state and national fingerprint-based criminal history
 209 check. The Agency for Health Care Administration and the
 210 Department of Law Enforcement may adopt rules to create forms or
 211 implement procedures needed to carry out this section.
 212 (2)(a) To ensure that the information in the clearinghouse
 213 is current, the fingerprints of a person an employee required to
 214 ~~be screened by a specified agency and included in the~~
 215 clearinghouse must be:
 216 1. Retained by the Department of Law Enforcement pursuant
 217 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
 218 Enforcement must report the results of searching those
 219 fingerprints against state incoming arrest fingerprint
 220 submissions to the Agency for Health Care Administration for
 221 inclusion in the clearinghouse.
 222 2. Retained by the Federal Bureau of Investigation in the
 223 national retained print arrest notification program as soon as
 224 the Department of Law Enforcement begins participation in such
 225 program. Arrest prints will be searched against retained prints
 226 at the Federal Bureau of Investigation and notification of
 227 arrests will be forwarded to the Florida Department of Law
 228 Enforcement and reported to the Agency for Health Care
 229 Administration for inclusion in the clearinghouse.
 230 3. Resubmitted for a Federal Bureau of Investigation
 231 national criminal history check every 5 years until such time as
 232 the fingerprints are retained by the Federal Bureau of

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Investigation.

4. Subject to retention on a 5-year renewal basis with fees collected at the time of initial submission or resubmission of fingerprints.

5. Submitted with a photograph of the person taken at the time the fingerprints are submitted.

(b) Until such time as the fingerprints are enrolled in the national retained print arrest notification program at the Federal Bureau of Investigation, an employee with a break in service of more than 90 days from a position that requires screening ~~by a specified agency~~ must submit to a national screening if the person returns to a position that requires screening ~~by a specified agency~~.

(c) An employer of persons subject to screening or a qualified entity participating in the clearinghouse ~~by a specified agency~~ must register with the clearinghouse and maintain the employment or affiliation status of all persons included in employees within the clearinghouse. Initial employment or affiliation status and any changes in status must be reported within 10 business days.

(d) An employer or a qualified entity participating in the clearinghouse must register with and initiate all criminal history checks through the clearinghouse before referring an employee or potential employee or a person with a current or potential affiliation with a qualified entity participating in the clearinghouse for electronic fingerprint submission to the Department of Law Enforcement. The registration must include the employee's full first name, middle initial, and last name; social security number; date of birth; mailing address; sex; and

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race. Individuals, persons, applicants, and controlling interests that cannot legally obtain a social security number must provide an individual taxpayer identification number.

Section 4. Paragraph (a) of subsection (1), paragraphs (a) and (b) of subsection (2), and subsection (4) of section 943.0438, Florida Statutes, are amended to read:

943.0438 Athletic coaches for independent sanctioning authorities.—

(1) As used in this section, the term:

(a) "Athletic coach" means a person who:

1. Is authorized by an independent sanctioning authority to work as a manager, coach, assistant coach, or referee ~~for 20 or more hours within a calendar year~~, whether for compensation or as a volunteer, for a youth athletic team based in this state; and

2. Has direct contact with one or more minors on the youth athletic team.

(2) An independent sanctioning authority shall:

(a) ~~1-~~ Conduct a level 2 ~~±~~ background screening pursuant to s. 435.04 ~~s. 435.03~~ of each current and prospective athletic coach. The authority may not delegate this responsibility to an individual team and may not authorize any person to act as an athletic coach unless a level 2 ~~±~~ background screening has been ~~is~~ conducted and has ~~does~~ not resulted ~~result~~ in disqualification under paragraph (b). ~~Level 1 background screenings shall be conducted annually for each athletic coach. For purposes of this section, a background screening shall include a search of the athletic coach's name or other identifying information against state and federal registries of~~

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~~sexual predators and sexual offenders, which are available to the public on Internet sites provided by:~~

~~a. The Department of Law Enforcement under s. 943.043; and
b. The Attorney General of the United States under 42 U.S.C. s. 16920.~~

~~2. For purposes of this section, a background screening conducted by a commercial consumer reporting agency in compliance with the federal Fair Credit Reporting Act using the identifying information referenced in subparagraph 1. that includes a level 1 background screening and a search of that information against the sexual predator and sexual offender Internet sites listed in sub-subparagraphs 1.a. and b. shall be deemed to satisfy the requirements of this paragraph.~~

(b) Disqualify any person from acting as an athletic coach as provided in s. 435.04 ~~s. 435.03~~ or if he or she is identified on a registry described in paragraph (a). The authority may allow a person disqualified under this paragraph to act as an athletic coach if it determines that the person meets the requirements for an exemption from disqualification under s. 435.07.

(4) ~~The Legislature encourages~~ Independent sanctioning authorities for youth athletic teams ~~shall~~ ~~to~~ participate in the Volunteer and Employee Criminal History System, as authorized by the National Child Protection Act of 1993 and s. 943.0542.

Section 5. Paragraph (h) of subsection (2) of section 943.05, Florida Statutes, is amended, and paragraph (i) is added to that subsection, to read:

943.05 Criminal Justice Information Program; duties; crime reports.—

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(2) The program shall:

(h) For each specified agency under s. 435.02, each qualified entity under s. 943.0542 participating in the Care Provider Background Screening Clearinghouse under s. 435.12, or any other agency or qualified entity that officially requests retention of fingerprints or for which retention is otherwise required by law, search all arrest fingerprint submissions received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (g).

1. Any arrest record that is identified with the retained fingerprints of a person subject to background screening as provided in paragraph (g) shall be reported to the appropriate agency or qualified entity.

2. To participate in this search process, agencies or qualified entities must notify each person fingerprinted that his or her fingerprints will be retained, pay an annual fee to the department unless otherwise provided by law, and inform the department of any change in the affiliation, employment, or contractual status of each person whose fingerprints are retained under paragraph (g) if such change removes or eliminates the agency or qualified entity's basis or need for receiving reports of any arrest of that person, so that the agency or qualified entity is not obligated to pay the upcoming annual fee for the retention and searching of that person's fingerprints to the department. The department shall adopt a rule setting the amount of the annual fee to be imposed upon each participating agency or qualified entity for performing these searches and establishing the procedures for the retention

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of fingerprints and the dissemination of search results. The fee may be borne by the agency, qualified entity, or person subject to fingerprint retention or as otherwise provided by law. Consistent with the recognition of criminal justice agencies expressed in s. 943.053(3), these services shall be provided to criminal justice agencies for criminal justice purposes free of charge. Qualified entities that elect to participate in the fingerprint retention and search process are required to timely remit the fee to the department by a payment mechanism approved by the department. If requested by the qualified entity, and with the approval of the department, such fees may be timely remitted to the department by a qualified entity upon receipt of an invoice for such fees from the department. Failure of a qualified entity to pay the amount due on a timely basis or as invoiced by the department may result in the refusal by the department to permit the qualified entity to continue to participate in the fingerprint retention and search process until all fees due and owing are paid.

3. Agencies that participate in the fingerprint retention and search process may adopt rules pursuant to ss. 120.536(1) and 120.54 to require employers to keep the agency informed of any change in the affiliation, employment, or contractual status of each person whose fingerprints are retained under paragraph (g) if such change removes or eliminates the agency's basis or need for receiving reports of any arrest of that person, so that the agency is not obligated to pay the upcoming annual fee for the retention and searching of that person's fingerprints to the department.

(i) Develop, for federal approval, a method for identifying

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or verifying an individual through automated biometrics.

Section 6. Section 943.0542, Florida Statutes, is amended to read:

943.0542 Access to criminal history information provided by the department or the Care Provider Background Screening Clearinghouse to qualified entities.—

(1) As used in this section, the term:

(a) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(b) "Qualified entity" means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

(2)~~(a)~~ A qualified entity must initiate all background criminal history checks through the department. Beginning January 1, 2025, or a later date established by the Agency for Health Care Administration, a qualified entity must initiate all background criminal history checks through the Care Provider Background Screening Clearinghouse under s. 435.12.

(a) If a qualified entity initiates a background criminal history check through the department, the qualified entity must:

1. Register with the department before submitting a request for screening under this section. Each such request must be voluntary and conform to the requirements established in the National Child Protection Act of 1993, as amended. As a part of the registration, the qualified entity must agree to comply with state and federal law and must so indicate by signing an

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agreement approved by the department. The department shall ~~may~~ periodically audit qualified entities to ensure compliance with federal law and this section.

~~2.(b) A qualified entity shall~~ Submit to the department a request for screening an employee or volunteer or person applying to be an employee or volunteer by submitting fingerprints, or the request may be submitted electronically. The qualified entity must maintain a signed waiver allowing the release of the state and national criminal history record information to the qualified entity.

~~3.(e)~~ Each such request must be accompanied by payment of a fee for a statewide criminal history check by the department established by s. 943.053, plus the amount currently prescribed by the Federal Bureau of Investigation for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended. Payments must be made in the manner prescribed by the department by rule.

~~4.(d)~~ Any current or prospective employee or volunteer who is subject to a request for screening must indicate to the qualified entity submitting the request the name and address of each qualified entity that has submitted a previous request for screening regarding that employee or volunteer.

(b) If a qualified entity initiates a background criminal history check through the clearinghouse, the qualified entity must comply with s. 435.12. All fingerprints received under this section must be entered into the clearinghouse as provided in s. 435.12.

(3) The clearinghouse or the department shall provide directly to the qualified entity the state criminal history

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records that are not exempt from disclosure under chapter 119 or otherwise confidential under law. A person who is the subject of a state criminal history record may challenge the record only as provided in s. 943.056.

(4) The national criminal history data is available to qualified entities to use only for the purpose of screening employees and volunteers or persons applying to be an employee or volunteer with a qualified entity. The clearinghouse or the department shall provide this national criminal history record information directly to the qualified entity as authorized by the written waiver required for submission of a request to the department.

(5) The determination whether the criminal history record shows that the employee or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, or disabled persons shall solely be made by the qualified entity. This section does not require the department to make such a determination on behalf of any qualified entity.

(6) The qualified entity must notify in writing the person of his or her right to obtain a copy of any background screening report, including the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. A qualified entity that is required by law

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to apply screening criteria, including any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and national criminal history record information received from the department for those persons subject to the required screening.

(7) The department may establish a database of registered qualified entities and make this data available free of charge to all registered qualified entities. The database must include, at a minimum, the name, address, and phone number of each qualified entity.

(8) A qualified entity is not liable for damages solely for failing to obtain the information authorized under this section with respect to an employee or volunteer. The state, any political subdivision of the state, or any agency, officer, or employee of the state or a political subdivision is not liable for damages for providing the information requested under this section.

(9) The department has authority to adopt rules to implement this section.

Section 7. Section 1012.315, Florida Statutes, is amended to read:

1012.315 Screening standards.—A person is ineligible for educator certification or employment in any position that requires direct contact with students in a district school system, a charter school, or a private school that participates in a state scholarship program under chapter 1002 if the person is on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b), is registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C), would be ineligible

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for an exemption under s. 435.07(4)(c), or is ineligible based on the security background investigation under s. 435.04(2) has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to:

(1) ~~Any felony offense prohibited under any of the following statutes:~~

(a) ~~Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.~~

(b) ~~Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.~~

(c) ~~Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.~~

(d) ~~Section 782.04, relating to murder.~~

(e) ~~Section 782.07, relating to manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.~~

(f) ~~Section 784.021, relating to aggravated assault.~~

(g) ~~Section 784.045, relating to aggravated battery.~~

(h) ~~Section 784.075, relating to battery on a detention or commitment facility staff member or a juvenile probation officer.~~

(i) ~~Section 787.01, relating to kidnapping.~~

(j) ~~Section 787.02, relating to false imprisonment.~~

(k) ~~Section 787.025, relating to luring or enticing a child.~~

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523 ~~(l) Section 787.04(2), relating to leading, taking,~~
 524 ~~enticing, or removing a minor beyond the state limits, or~~
 525 ~~concealing the location of a minor, with criminal intent pending~~
 526 ~~custody proceedings.~~
 527 ~~(m) Section 787.04(3), relating to leading, taking,~~
 528 ~~enticing, or removing a minor beyond the state limits, or~~
 529 ~~concealing the location of a minor, with criminal intent pending~~
 530 ~~dependency proceedings or proceedings concerning alleged abuse~~
 531 ~~or neglect of a minor.~~
 532 ~~(n) Section 790.115(1), relating to exhibiting firearms or~~
 533 ~~weapons at a school-sponsored event, on school property, or~~
 534 ~~within 1,000 feet of a school.~~
 535 ~~(o) Section 790.115(2)(b), relating to possessing an~~
 536 ~~electric weapon or device, destructive device, or other weapon~~
 537 ~~at a school-sponsored event or on school property.~~
 538 ~~(p) Section 794.011, relating to sexual battery.~~
 539 ~~(q) Former s. 794.041, relating to sexual activity with or~~
 540 ~~solicitation of a child by a person in familial or custodial~~
 541 ~~authority.~~
 542 ~~(r) Section 794.05, relating to unlawful sexual activity~~
 543 ~~with certain minors.~~
 544 ~~(s) Section 794.08, relating to female genital mutilation.~~
 545 ~~(t) Chapter 796, relating to prostitution.~~
 546 ~~(u) Chapter 800, relating to lewdness and indecent~~
 547 ~~exposure.~~
 548 ~~(v) Section 800.101, relating to offenses against students~~
 549 ~~by authority figures.~~
 550 ~~(w) Section 806.01, relating to arson.~~
 551 ~~(x) Section 810.14, relating to voyeurism.~~

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552 ~~(y) Section 810.145, relating to video voyeurism.~~
 553 ~~(z) Section 812.014(6), relating to coordinating the~~
 554 ~~commission of theft in excess of \$3,000.~~
 555 ~~(aa) Section 812.0145, relating to theft from persons 65~~
 556 ~~years of age or older.~~
 557 ~~(bb) Section 812.019, relating to dealing in stolen~~
 558 ~~property.~~
 559 ~~(cc) Section 812.13, relating to robbery.~~
 560 ~~(dd) Section 812.131, relating to robbery by sudden~~
 561 ~~snatching.~~
 562 ~~(ee) Section 812.133, relating to carjacking.~~
 563 ~~(ff) Section 812.135, relating to home invasion robbery.~~
 564 ~~(gg) Section 817.563, relating to fraudulent sale of~~
 565 ~~controlled substances.~~
 566 ~~(hh) Section 825.102, relating to abuse, aggravated abuse,~~
 567 ~~or neglect of an elderly person or disabled adult.~~
 568 ~~(ii) Section 825.103, relating to exploitation of an~~
 569 ~~elderly person or disabled adult.~~
 570 ~~(jj) Section 825.1025, relating to lewd or lascivious~~
 571 ~~offenses committed upon or in the presence of an elderly person~~
 572 ~~or disabled person.~~
 573 ~~(kk) Section 826.04, relating to incest.~~
 574 ~~(ll) Section 827.03, relating to child abuse, aggravated~~
 575 ~~child abuse, or neglect of a child.~~
 576 ~~(mm) Section 827.04, relating to contributing to the~~
 577 ~~delinquency or dependency of a child.~~
 578 ~~(nn) Section 827.071, relating to sexual performance by a~~
 579 ~~child.~~
 580 ~~(oo) Section 843.01, relating to resisting arrest with~~

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581 ~~violence.~~

582 ~~(pp) Chapter 847, relating to obscenity.~~

583 ~~(qq) Section 874.05, relating to causing, encouraging,~~
 584 ~~soliciting, or recruiting another to join a criminal street~~
 585 ~~gang.~~

586 ~~(rr) Chapter 893, relating to drug abuse prevention and~~
 587 ~~control, if the offense was a felony of the second degree or~~
 588 ~~greater severity.~~

589 ~~(ss) Section 916.1075, relating to sexual misconduct with~~
 590 ~~certain forensic clients and reporting of such sexual~~
 591 ~~misconduct.~~

592 ~~(tt) Section 944.47, relating to introduction, removal, or~~
 593 ~~possession of contraband at a correctional facility.~~

594 ~~(uu) Section 985.701, relating to sexual misconduct in~~
 595 ~~juvenile justice programs.~~

596 ~~(vv) Section 985.711, relating to introduction, removal, or~~
 597 ~~possession of contraband at a juvenile detention facility or~~
 598 ~~commitment program.~~

599 ~~(2) Any misdemeanor offense prohibited under any of the~~
 600 ~~following statutes:~~

601 ~~(a) Section 784.03, relating to battery, if the victim of~~
 602 ~~the offense was a minor.~~

603 ~~(b) Section 787.025, relating to luring or enticing a~~
 604 ~~child.~~

605 ~~(3) Any criminal act committed in another state or under~~
 606 ~~federal law which, if committed in this state, constitutes an~~
 607 ~~offense prohibited under any statute listed in subsection (1) or~~
 608 ~~subsection (2).~~

609 ~~(4) Any delinquent act committed in this state or any~~

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610 ~~delinquent or criminal act committed in another state or under~~
 611 ~~federal law which, if committed in this state, qualifies an~~
 612 ~~individual for inclusion on the Registered Juvenile Sex Offender~~
 613 ~~List under s. 943.0435(1)(h)1.d.~~

614 Section 8. Subsection (2) of section 1012.467, Florida
 615 Statutes, is amended to read:

616 1012.467 Noninstructional contractors who are permitted
 617 access to school grounds when students are present; background
 618 screening requirements.—

619 (2)(a) A fingerprint-based criminal history check shall be
 620 performed on each noninstructional contractor who is permitted
 621 access to school grounds when students are present, whose
 622 performance of the contract with the school or school board is
 623 not anticipated to result in direct contact with students, and
 624 for whom any unanticipated contact would be infrequent and
 625 incidental using the process described in s. 1012.32(3). The
 626 results of each criminal history check shall be reported to the
 627 school district in which the individual is seeking access and
 628 entered into the shared system described in subsection (7). The
 629 school district shall screen the results using the disqualifying
 630 offenses in s. 435.04(2) paragraph (b). The cost of the criminal
 631 history check may be borne by the district school board, the
 632 school, or the contractor.

633 (b) A noninstructional contractor for whom a criminal
 634 history check is required under this section may not have been
 635 convicted of any of the following offenses in s. 435.04(2)
 636 designated in the Florida Statutes, any similar offense in
 637 another jurisdiction, or any similar offense committed in this
 638 state which has been redesignated from a former provision of the

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Florida Statutes to one of the following offenses:

1. ~~Any offense listed in s. 943.0435(1)(h)1., relating to the registration of an individual as a sexual offender.~~

2. ~~Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and the reporting of such sexual misconduct.~~

3. ~~Section 394.4593, relating to sexual misconduct with certain mental health patients and the reporting of such sexual misconduct.~~

4. ~~Section 775.30, relating to terrorism.~~

5. ~~Section 782.04, relating to murder.~~

6. ~~Section 787.01, relating to kidnapping.~~

7. ~~Any offense under chapter 800, relating to lewdness and indecent exposure.~~

8. ~~Section 826.04, relating to incest.~~

9. ~~Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.~~

Section 9. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (1) of section 39.821, Florida Statutes, is reenacted to read:

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Guardian Ad Litem Program may use any private funds collected by the program, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal

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history records checks through local law enforcement agencies, and statewide criminal history records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for information contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has an arrest awaiting final disposition for, been convicted of, regardless of adjudication, entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants must undergo a level 2 background screening pursuant to chapter 435 before being certified to serve as a guardian ad litem. In analyzing and evaluating the information obtained in the security background investigation, the program must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The program has sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to

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697 the security background investigation is confidential and exempt
 698 from s. 119.07(1).

699 Section 10. For the purpose of incorporating the amendment
 700 made by this act to section 435.04, Florida Statutes, in a
 701 reference thereto, subsection (1) of section 381.0059, Florida
 702 Statutes, is reenacted to read:

703 381.0059 Background screening requirements for school
 704 health services personnel.—

705 (1) Pursuant to the provisions of chapter 435, any person
 706 who provides services under a school health services plan
 707 pursuant to s. 381.0056 must meet level 2 screening requirements
 708 as described in s. 435.04. A person may satisfy the requirements
 709 of this subsection by submitting proof of compliance with the
 710 requirements of level 2 screening conducted within 12 months
 711 before the date that person initially provides services under a
 712 school health services plan.

713 Section 11. For the purpose of incorporating the amendment
 714 made by this act to section 435.04, Florida Statutes, in a
 715 reference thereto, subsection (9) of section 381.986, Florida
 716 Statutes, is reenacted to read:

717 381.986 Medical use of marijuana.—

718 (9) BACKGROUND SCREENING.—An individual required to undergo
 719 a background screening pursuant to this section must pass a
 720 level 2 background screening as provided under chapter 435,
 721 which, in addition to the disqualifying offenses provided in s.
 722 435.04, shall exclude an individual who has an arrest awaiting
 723 final disposition for, has been found guilty of, regardless of
 724 adjudication, or has entered a plea of nolo contendere or guilty
 725 to an offense under chapter 837, chapter 895, or chapter 896 or

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726 similar law of another jurisdiction.

727 (a) Such individual must submit a full set of fingerprints
 728 to the department or to a vendor, entity, or agency authorized
 729 by s. 943.053(13). The department, vendor, entity, or agency
 730 shall forward the fingerprints to the Department of Law
 731 Enforcement for state processing, and the Department of Law
 732 Enforcement shall forward the fingerprints to the Federal Bureau
 733 of Investigation for national processing.

734 (b) Fees for state and federal fingerprint processing and
 735 retention shall be borne by the individual. The state cost for
 736 fingerprint processing shall be as provided in s. 943.053(3)(e)
 737 for records provided to persons or entities other than those
 738 specified as exceptions therein.

739 (c) Fingerprints submitted to the Department of Law
 740 Enforcement pursuant to this subsection shall be retained by the
 741 Department of Law Enforcement as provided in s. 943.05(2)(g) and
 742 (h) and, when the Department of Law Enforcement begins
 743 participation in the program, enrolled in the Federal Bureau of
 744 Investigation's national retained print arrest notification
 745 program. Any arrest record identified shall be reported to the
 746 department.

747 Section 12. For the purpose of incorporating the amendment
 748 made by this act to section 435.04, Florida Statutes, in a
 749 reference thereto, subsection (5) of section 393.0655, Florida
 750 Statutes, is reenacted to read:

751 393.0655 Screening of direct service providers.—

752 (5) DISQUALIFYING OFFENSES.—The background screening
 753 conducted under this section must ensure that, in addition to
 754 the disqualifying offenses listed in s. 435.04, no person

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subject to the provisions of this section has an arrest awaiting final disposition for, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:

- (a) Any authorizing statutes, if the offense was a felony.
- (b) This chapter, if the offense was a felony.
- (c) Section 409.920, relating to Medicaid provider fraud.
- (d) Section 409.9201, relating to Medicaid fraud.
- (e) Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.
- (f) Section 817.234, relating to false and fraudulent insurance claims.
- (g) Section 817.505, relating to patient brokering.
- (h) Section 817.568, relating to criminal use of personal identification information.
- (i) Section 817.60, relating to obtaining a credit card through fraudulent means.
- (j) Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.
- (k) Section 831.01, relating to forgery.
- (l) Section 831.02, relating to uttering forged instruments.
- (m) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.
- (n) Section 831.09, relating to uttering forged bank bills,

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checks, drafts, or promissory notes.

Section 13. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (6) of section 397.487, Florida Statutes, is reenacted to read:

397.487 Voluntary certification of recovery residences.—

(6) All owners, directors, and chief financial officers of an applicant recovery residence are subject to level 2 background screening as provided under s. 408.809 and chapter 435. A recovery residence is ineligible for certification, and a credentialing entity shall deny a recovery residence's application, if any owner, director, or chief financial officer has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809(4) or s. 435.04(2) unless the department has issued an exemption under s. 435.07. Exemptions from disqualification applicable to service provider personnel pursuant to s. 397.4073 or s. 435.07 shall apply to this subsection. In accordance with s. 435.04, the department shall notify the credentialing agency of an owner's, director's, or chief financial officer's eligibility based on the results of his or her background screening.

Section 14. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, Subsection (5) and paragraph (b) of subsection (6) of section 397.4871, Florida Statutes, are reenacted to read:

397.4871 Recovery residence administrator certification.—

(5) All applicants are subject to level 2 background

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813 screening as provided under chapter 435. An applicant is
 814 ineligible, and a credentialing entity shall deny the
 815 application, if the applicant has been found guilty of, or has
 816 entered a plea of guilty or nolo contendere to, regardless of
 817 adjudication, any offense listed in s. 408.809 or s. 435.04(2)
 818 unless the department has issued an exemption under s. 435.07.
 819 Exemptions from disqualification applicable to service provider
 820 personnel pursuant to s. 397.4073 or s. 435.07 shall apply to
 821 this subsection. In accordance with s. 435.04, the department
 822 shall notify the credentialing agency of the applicant's
 823 eligibility based on the results of his or her background
 824 screening.

825 (6) The credentialing entity shall issue a certificate of
 826 compliance upon approval of a person's application. The
 827 certification shall automatically terminate 1 year after
 828 issuance if not renewed.

829 (b) If a certified recovery residence administrator of a
 830 recovery residence is arrested for or found guilty of, or enters
 831 a plea of guilty or nolo contendere to, regardless of
 832 adjudication, any offense listed in s. 435.04(2) while acting in
 833 that capacity, the recovery residence shall immediately remove
 834 the person from that position and shall notify the credentialing
 835 entity within 3 business days after such removal. The recovery
 836 residence shall have 30 days to retain a certified recovery
 837 residence administrator. The credentialing entity shall revoke
 838 the certificate of compliance of any recovery residence that
 839 fails to meet these requirements.

840 Section 15. For the purpose of incorporating the amendment
 841 made by this act to section 435.04, Florida Statutes, in a

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842 reference thereto, paragraph (a) of subsection (3) of section
 843 402.62, Florida Statutes, is reenacted to read:

844 402.62 Strong Families Tax Credit.—

845 (3) RESPONSIBILITIES OF ELIGIBLE CHARITABLE ORGANIZATIONS.—

846 An eligible charitable organization that receives a contribution
 847 under this section must do all of the following:

848 (a) Apply for admittance into the Department of Law
 849 Enforcement's Volunteer and Employee Criminal History System
 850 and, if accepted, conduct background screening on all volunteers
 851 and staff working directly with children in any program funded
 852 under this section pursuant to s. 943.0542. Background screening
 853 shall use level 2 screening standards pursuant to s. 435.04 and
 854 additionally include, but need not be limited to, a check of the
 855 Dru Sjodin National Sex Offender Public Website.

856 Section 16. For the purpose of incorporating the amendment
 857 made by this act to section 435.04, Florida Statutes, in a
 858 reference thereto, paragraph (a) of subsection (2) and
 859 subsections (3) and (4) of section 408.809, Florida Statutes,
 860 are reenacted to read:

861 408.809 Background screening; prohibited offenses.—

862 (2) Every 5 years following his or her licensure,
 863 employment, or entry into a contract in a capacity that under
 864 subsection (1) would require level 2 background screening under
 865 chapter 435, each such person must submit to level 2 background
 866 rescreening as a condition of retaining such license or
 867 continuing in such employment or contractual status. For any
 868 such rescreening, the agency shall request the Department of Law
 869 Enforcement to forward the person's fingerprints to the Federal
 870 Bureau of Investigation for a national criminal history record

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871 check unless the person's fingerprints are enrolled in the
 872 Federal Bureau of Investigation's national retained print arrest
 873 notification program. If the fingerprints of such a person are
 874 not retained by the Department of Law Enforcement under s.
 875 943.05(2)(g) and (h), the person must submit fingerprints
 876 electronically to the Department of Law Enforcement for state
 877 processing, and the Department of Law Enforcement shall forward
 878 the fingerprints to the Federal Bureau of Investigation for a
 879 national criminal history record check. The fingerprints shall
 880 be retained by the Department of Law Enforcement under s.
 881 943.05(2)(g) and (h) and enrolled in the national retained print
 882 arrest notification program when the Department of Law
 883 Enforcement begins participation in the program. The cost of the
 884 state and national criminal history records checks required by
 885 level 2 screening may be borne by the licensee or the person
 886 fingerprinted. The agency may accept as satisfying the
 887 requirements of this section proof of compliance with level 2
 888 screening standards submitted within the previous 5 years to
 889 meet any provider or professional licensure requirements of the
 890 Department of Financial Services for an applicant for a
 891 certificate of authority or provisional certificate of authority
 892 to operate a continuing care retirement community under chapter
 893 651, provided that:

894 (a) The screening standards and disqualifying offenses for
 895 the prior screening are equivalent to those specified in s.
 896 435.04 and this section;

897 (3) All fingerprints must be provided in electronic format.
 898 Screening results shall be reviewed by the agency with respect
 899 to the offenses specified in s. 435.04 and this section, and the

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900 qualifying or disqualifying status of the person named in the
 901 request shall be maintained in a database. The qualifying or
 902 disqualifying status of the person named in the request shall be
 903 posted on a secure website for retrieval by the licensee or
 904 designated agent on the licensee's behalf.

905 (4) In addition to the offenses listed in s. 435.04, all
 906 persons required to undergo background screening pursuant to
 907 this part or authorizing statutes must not have an arrest
 908 awaiting final disposition for, must not have been found guilty
 909 of, regardless of adjudication, or entered a plea of nolo
 910 contendere or guilty to, and must not have been adjudicated
 911 delinquent and the record not have been sealed or expunged for
 912 any of the following offenses or any similar offense of another
 913 jurisdiction:

914 (a) Any authorizing statutes, if the offense was a felony.

915 (b) This chapter, if the offense was a felony.

916 (c) Section 409.920, relating to Medicaid provider fraud.

917 (d) Section 409.9201, relating to Medicaid fraud.

918 (e) Section 741.28, relating to domestic violence.

919 (f) Section 777.04, relating to attempts, solicitation, and
 920 conspiracy to commit an offense listed in this subsection.

921 (g) Section 784.03, relating to battery, if the victim is a
 922 vulnerable adult as defined in s. 415.102 or a patient or
 923 resident of a facility licensed under chapter 395, chapter 400,
 924 or chapter 429.

925 (h) Section 817.034, relating to fraudulent acts through
 926 mail, wire, radio, electromagnetic, photoelectronic, or
 927 photooptical systems.

928 (i) Section 817.234, relating to false and fraudulent

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insurance claims.

(j) Section 817.481, relating to obtaining goods by using a false or expired credit card or other credit device, if the offense was a felony.

(k) Section 817.50, relating to fraudulently obtaining goods or services from a health care provider.

(l) Section 817.505, relating to patient brokering.

(m) Section 817.568, relating to criminal use of personal identification information.

(n) Section 817.60, relating to obtaining a credit card through fraudulent means.

(o) Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.

(p) Section 831.01, relating to forgery.

(q) Section 831.02, relating to uttering forged instruments.

(r) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.

(s) Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.

(t) Section 831.30, relating to fraud in obtaining medicinal drugs.

(u) Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.

(v) Section 895.03, relating to racketeering and collection of unlawful debts.

(w) Section 896.101, relating to the Florida Money

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Laundering Act.

If, upon rescreening, a person who is currently employed or contracted with a licensee and was screened and qualified under s. 435.04 has a disqualifying offense that was not a disqualifying offense at the time of the last screening, but is a current disqualifying offense and was committed before the last screening, he or she may apply for an exemption from the appropriate licensing agency and, if agreed to by the employer, may continue to perform his or her duties until the licensing agency renders a decision on the application for exemption if the person is eligible to apply for an exemption and the exemption request is received by the agency no later than 30 days after receipt of the rescreening results by the person.

Section 17. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (13) of section 409.913, Florida Statutes, is reenacted to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate. Each January 15, the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs shall submit a report to the Legislature documenting the effectiveness of the state's efforts to control Medicaid fraud and abuse and to recover Medicaid overpayments during the previous fiscal year.

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987 The report must describe the number of cases opened and
 988 investigated each year; the sources of the cases opened; the
 989 disposition of the cases closed each year; the amount of
 990 overpayments alleged in preliminary and final audit letters; the
 991 number and amount of fines or penalties imposed; any reductions
 992 in overpayment amounts negotiated in settlement agreements or by
 993 other means; the amount of final agency determinations of
 994 overpayments; the amount deducted from federal claiming as a
 995 result of overpayments; the amount of overpayments recovered
 996 each year; the amount of cost of investigation recovered each
 997 year; the average length of time to collect from the time the
 998 case was opened until the overpayment is paid in full; the
 999 amount determined as uncollectible and the portion of the
 1000 uncollectible amount subsequently reclaimed from the Federal
 1001 Government; the number of providers, by type, that are
 1002 terminated from participation in the Medicaid program as a
 1003 result of fraud and abuse; and all costs associated with
 1004 discovering and prosecuting cases of Medicaid overpayments and
 1005 making recoveries in such cases. The report must also document
 1006 actions taken to prevent overpayments and the number of
 1007 providers prevented from enrolling in or reenrolling in the
 1008 Medicaid program as a result of documented Medicaid fraud and
 1009 abuse and must include policy recommendations necessary to
 1010 prevent or recover overpayments and changes necessary to prevent
 1011 and detect Medicaid fraud. All policy recommendations in the
 1012 report must include a detailed fiscal analysis, including, but
 1013 not limited to, implementation costs, estimated savings to the
 1014 Medicaid program, and the return on investment. The agency must
 1015 submit the policy recommendations and fiscal analyses in the

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1016 report to the appropriate estimating conference, pursuant to s.
 1017 216.137, by February 15 of each year. The agency and the
 1018 Medicaid Fraud Control Unit of the Department of Legal Affairs
 1019 each must include detailed unit-specific performance standards,
 1020 benchmarks, and metrics in the report, including projected cost
 1021 savings to the state Medicaid program during the following
 1022 fiscal year.

1023 (13) The agency shall terminate participation of a Medicaid
 1024 provider in the Medicaid program and may seek civil remedies or
 1025 impose other administrative sanctions against a Medicaid
 1026 provider, if the provider or any principal, officer, director,
 1027 agent, managing employee, or affiliated person of the provider,
 1028 or any partner or shareholder having an ownership interest in
 1029 the provider equal to 5 percent or greater, has been convicted
 1030 of a criminal offense under federal law or the law of any state
 1031 relating to the practice of the provider's profession, or a
 1032 criminal offense listed under s. 408.809(4), s. 409.907(10), or
 1033 s. 435.04(2). If the agency determines that the provider did not
 1034 participate or acquiesce in the offense, termination will not be
 1035 imposed. If the agency effects a termination under this
 1036 subsection, the agency shall take final agency action.

1037 Section 18. For the purpose of incorporating the amendment
 1038 made by this act to section 435.04, Florida Statutes, in a
 1039 reference thereto, subsection (7) of section 413.011, Florida
 1040 Statutes, is reenacted to read:

1041 413.011 Division of Blind Services, legislative policy,
 1042 intent; internal organizational structure and powers;
 1043 Rehabilitation Council for the Blind.—

1044 (7) EMPLOYMENT SCREENING.—The division shall require all

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employees and applicants for employment to undergo personnel screening and security background investigations as provided in chapter 435, using the level 2 standards for screening set forth in that chapter, as a condition of employment and continued employment. All division employees and applicants for employment must meet level 2 screening standards as provided in s. 435.04 prior to employment and as a condition of continued employment.

Section 19. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, paragraphs (d) and (e) of subsection (2) of section 413.208, Florida Statutes, are reenacted to read:

413.208 Service providers; quality assurance; fitness for responsibilities; background screening.—

(2)

(d)1. Every 5 years following the initial screening, each person subject to background screening under this section must submit to level 2 background rescreening as a condition of the service provider retaining such registration.

2. Until the person's background screening results are retained in the clearinghouse created under s. 435.12, the division may accept as satisfying the requirements of this section proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any provider or professional licensure requirements of the Agency for Health Care Administration, the Department of Health, the Department of Elderly Affairs, the Agency for Persons with Disabilities, or the Department of Children and Families, provided:

a. The screening standards and disqualifying offenses for the prior screening are equivalent to those specified in s.

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435.04 and this section;

b. The person subject to screening has not had a break in service from a position that requires level 2 screening for more than 90 days; and

c. Such proof is accompanied, under penalty of perjury, by an affidavit of compliance with the provisions of chapter 435 and this section.

(e) In addition to the disqualifying offenses listed in s. 435.04, all persons subject to undergo background screening pursuant to this section must not have an arrest awaiting final disposition for, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent, and the record has not been expunged for, any offense prohibited under any of the following provisions or similar law of another jurisdiction:

1. Section 409.920, relating to Medicaid provider fraud.

2. Section 409.9201, relating to Medicaid fraud.

3. Section 741.28, relating to domestic violence.

4. Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.

5. Section 817.234, relating to false and fraudulent insurance claims.

6. Section 817.505, relating to patient brokering.

7. Section 817.568, relating to criminal use of personal identification information.

8. Section 817.60, relating to obtaining a credit card through fraudulent means.

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1103 9. Section 817.61, relating to fraudulent use of credit
 1104 cards, if the offense was a felony.
 1105 10. Section 831.01, relating to forgery.
 1106 11. Section 831.02, relating to uttering forged
 1107 instruments.
 1108 12. Section 831.07, relating to forging bank bills, checks,
 1109 drafts, or promissory notes.
 1110 13. Section 831.09, relating to uttering forged bank bills,
 1111 checks, drafts, or promissory notes.
 1112 14. Section 831.31, relating to the sale, manufacture,
 1113 delivery, or possession with the intent to sell, manufacture, or
 1114 deliver any counterfeit controlled substance, if the offense was
 1115 a felony.
 1116 Section 20. For the purpose of incorporating the amendment
 1117 made by this act to section 435.04, Florida Statutes, in a
 1118 reference thereto, subsection (6) of section 430.0402, Florida
 1119 Statutes, is reenacted to read:
 1120 430.0402 Screening of direct service providers.—
 1121 (6) The background screening conducted pursuant to this
 1122 section must ensure that, in addition to the disqualifying
 1123 offenses listed in s. 435.04, no person subject to the
 1124 provisions of this section has an arrest awaiting final
 1125 disposition for, has been found guilty of, regardless of
 1126 adjudication, or entered a plea of nolo contendere or guilty to,
 1127 or has been adjudicated delinquent and the record has not been
 1128 sealed or expunged for, any offense prohibited under any of the
 1129 following provisions of state law or similar law of another
 1130 jurisdiction:
 1131 (a) Section 409.920, relating to Medicaid provider fraud.

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1132 (b) Section 409.9201, relating to Medicaid fraud.
 1133 (c) Section 817.034, relating to fraudulent acts through
 1134 mail, wire, radio, electromagnetic, photoelectronic, or
 1135 photooptical systems.
 1136 (d) Section 817.234, relating to false and fraudulent
 1137 insurance claims.
 1138 (e) Section 817.505, relating to patient brokering.
 1139 (f) Section 817.568, relating to criminal use of personal
 1140 identification information.
 1141 (g) Section 817.60, relating to obtaining a credit card
 1142 through fraudulent means.
 1143 (h) Section 817.61, relating to fraudulent use of credit
 1144 cards, if the offense was a felony.
 1145 (i) Section 831.01, relating to forgery.
 1146 (j) Section 831.02, relating to uttering forged
 1147 instruments.
 1148 (k) Section 831.07, relating to forging bank bills, checks,
 1149 drafts, or promissory notes.
 1150 (l) Section 831.09, relating to uttering forged bank bills,
 1151 checks, drafts, or promissory notes.
 1152 Section 21. For the purpose of incorporating the amendment
 1153 made by this act to section 435.04, Florida Statutes, in a
 1154 reference thereto, subsection (2) of section 435.03, Florida
 1155 Statutes, is reenacted to read:
 1156 435.03 Level 1 screening standards.—
 1157 (2) Any person required by law to be screened pursuant to
 1158 this section must not have an arrest awaiting final disposition,
 1159 must not have been found guilty of, regardless of adjudication,
 1160 or entered a plea of nolo contendere or guilty to, and must not

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1161 have been adjudicated delinquent and the record has not been
 1162 sealed or expunged for, any offense prohibited under s.
 1163 435.04(2) or similar law of another jurisdiction.
 1164 Section 22. For the purpose of incorporating the amendment
 1165 made by this act to section 435.04, Florida Statutes, in a
 1166 reference thereto, paragraph (a) of subsection (4) of section
 1167 435.07, Florida Statutes, is reenacted to read:
 1168 435.07 Exemptions from disqualification.—Unless otherwise
 1169 provided by law, the provisions of this section apply to
 1170 exemptions from disqualification for disqualifying offenses
 1171 revealed pursuant to background screenings required under this
 1172 chapter, regardless of whether those disqualifying offenses are
 1173 listed in this chapter or other laws.
 1174 (4)(a) Disqualification from employment under this chapter
 1175 may not be removed from, nor may an exemption be granted to, any
 1176 personnel who is found guilty of, regardless of adjudication, or
 1177 who has entered a plea of nolo contendere or guilty to, any
 1178 felony covered by s. 435.03 or s. 435.04 solely by reason of any
 1179 pardon, executive clemency, or restoration of civil rights.
 1180 Section 23. For the purpose of incorporating the amendment
 1181 made by this act to section 435.04, Florida Statutes, in a
 1182 reference thereto, subsection (5) of section 456.0135, Florida
 1183 Statutes, is reenacted to read:
 1184 456.0135 General background screening provisions.—
 1185 (5) In addition to the offenses listed in s. 435.04, all
 1186 persons required to undergo background screening under this
 1187 section, other than those licensed under s. 465.022, must not
 1188 have an arrest awaiting final disposition for, must not have
 1189 been found guilty of, regardless of adjudication, or entered a

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1190 plea of nolo contendere or guilty to, and must not have been
 1191 adjudicated delinquent and the record not have been sealed or
 1192 expunged for an offense under s. 784.03 or any similar offense
 1193 of another jurisdiction relating to battery, if the victim is a
 1194 vulnerable adult as defined in s. 415.102 or a patient or
 1195 resident of a facility licensed under chapter 395, chapter 400,
 1196 or chapter 429.
 1197 Section 24. For the purpose of incorporating the amendment
 1198 made by this act to section 435.04, Florida Statutes, in a
 1199 reference thereto, paragraph (e) of subsection (1) of section
 1200 464.018, Florida Statutes, is reenacted to read:
 1201 464.018 Disciplinary actions.—
 1202 (1) The following acts constitute grounds for denial of a
 1203 license or disciplinary action, as specified in ss. 456.072(2)
 1204 and 464.0095:
 1205 (e) Having been found guilty of or entered a plea of nolo
 1206 contendere or guilty to, regardless of adjudication, any offense
 1207 prohibited under s. 435.04 or similar statute of another
 1208 jurisdiction; or having committed an act which constitutes
 1209 domestic violence as defined in s. 741.28.
 1210 Section 25. For the purpose of incorporating the amendment
 1211 made by this act to section 435.04, Florida Statutes, in a
 1212 reference thereto, paragraph (m) of subsection (1) of section
 1213 468.3101, Florida Statutes, is reenacted to read:
 1214 468.3101 Disciplinary grounds and actions.—
 1215 (1) The department may make or require to be made any
 1216 investigations, inspections, evaluations, and tests, and require
 1217 the submission of any documents and statements, which it
 1218 considers necessary to determine whether a violation of this

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part has occurred. The following acts shall be grounds for disciplinary action as set forth in this section:

(m) Having been found guilty of, regardless of adjudication, or pleading guilty or nolo contendere to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction.

Section 26. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (3) of section 744.309, Florida Statutes, is reenacted to read:

744.309 Who may be appointed guardian of a resident ward.—

(3) DISQUALIFIED PERSONS.—No person who has been convicted of a felony or who, from any incapacity or illness, is incapable of discharging the duties of a guardian, or who is otherwise unsuitable to perform the duties of a guardian, shall be appointed to act as guardian. Further, no person who has been judicially determined to have committed abuse, abandonment, or neglect against a child as defined in s. 39.01 or s. 984.03(1), (2), and (37), or who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction, shall be appointed to act as a guardian. Except as provided in subsection (5) or subsection (6), a person who provides substantial services to the proposed ward in a professional or business capacity, or a creditor of the proposed ward, may not be appointed guardian and retain that previous professional or business relationship. A person may not be appointed a guardian if he or she is in the employ of any person, agency, government, or corporation that provides service

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to the proposed ward in a professional or business capacity, except that a person so employed may be appointed if he or she is the spouse, adult child, parent, or sibling of the proposed ward or the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the proposed ward's best interest. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.

Section 27. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (12) of section 744.474, Florida Statutes, is reenacted to read:

744.474 Reasons for removal of guardian.—A guardian may be removed for any of the following reasons, and the removal shall be in addition to any other penalties prescribed by law:

(12) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction.

Section 28. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, paragraph (a) of subsection (6) of section 985.04, Florida Statutes, is reenacted to read:

985.04 Oaths; records; confidential information.—

(6) (a) Records maintained by the department, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in s. 435.04 may not be destroyed under this section for 25 years after the

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youth's final referral to the department, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or under departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

Section 29. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 985.644, Florida Statutes, is reenacted to read:

985.644 Departmental contracting powers; personnel standards and investigation.—

(3)(a) All employees of the department and all personnel of contract providers for any program for children, including all owners, operators, employees, persons who have access to confidential juvenile records, and volunteers, must complete:

1. A level 2 employment screening pursuant to chapter 435 before employment. The security background investigation conducted under this section must ensure that, in addition to the disqualifying offenses listed in s. 435.04, no person subject to the background screening provisions of this section has an arrest awaiting final disposition for, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the

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record has not been sealed or expunged for, any offense prohibited under the following provisions of state law or similar laws of another jurisdiction:

a. Section 784.07, relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers.

b. Section 817.568, relating to criminal use of personal identification information.

2. A national criminal records check by the Federal Bureau of Investigation every 5 years following the date of the person's employment.

Section 30. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 1002.36, Florida Statutes, is reenacted to read:

1002.36 Florida School for the Deaf and the Blind.—

(7) PERSONNEL SCREENING.—

(b) As a prerequisite for initial and continuing employment at the Florida School for the Deaf and the Blind:

1. The applicant or employee shall submit to the Florida School for the Deaf and the Blind a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the Florida School for the Deaf and the Blind who is trained to take fingerprints. The Florida School for the Deaf and the Blind shall submit the fingerprints to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing.

2.a. The applicant or employee shall attest to the minimum

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standards for good moral character as contained in chapter 435, using the level 2 standards set forth in that chapter under penalty of perjury.

b. New personnel shall be on a probationary status pending a determination of compliance with such minimum standards for good moral character. This paragraph is in addition to any probationary status provided for by Florida law or Florida School for the Deaf and the Blind rules or collective bargaining contracts.

3. The Florida School for the Deaf and the Blind shall review the record of the applicant or employee with respect to the crimes contained in s. 435.04 and shall notify the applicant or employee of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the applicant or employee, upon request of the Florida School for the Deaf and the Blind, to obtain and supply within 30 days the missing disposition information to the Florida School for the Deaf and the Blind. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification of an applicant and automatic termination of an employee.

4. After an initial personnel screening and security background investigation, written notification shall be given to the affected employee within a reasonable time prior to any subsequent screening and investigation.

Section 31. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, paragraph (b) of subsection (6) of section 1002.395, Florida Statutes, is reenacted to read:

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1002.395 Florida Tax Credit Scholarship Program.—

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

(b) Must comply with the following background check requirements:

1. All owners and operators as defined in subparagraph (2) (i) 1. are, before employment or engagement to provide services, subject to level 2 background screening as provided under chapter 435. The fingerprints for the background screening must be electronically submitted to the Department of Law Enforcement and can be taken by an authorized law enforcement agency or by an employee of the eligible nonprofit scholarship-funding organization or a private company who is trained to take fingerprints. However, the complete set of fingerprints of an owner or operator may not be taken by the owner or operator. The results of the state and national criminal history check shall be provided to the Department of Education for screening under chapter 435. The cost of the background screening may be borne by the eligible nonprofit scholarship-funding organization or the owner or operator.

2. Every 5 years following employment or engagement to provide services or association with an eligible nonprofit scholarship-funding organization, each owner or operator must meet level 2 screening standards as described in s. 435.04, at which time the nonprofit scholarship-funding organization shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for level 2 screening. If the fingerprints of an owner or operator are not

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retained by the Department of Law Enforcement under subparagraph 3., the owner or operator must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the eligible nonprofit scholarship-funding organization shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under subparagraph 3.

3. Fingerprints submitted to the Department of Law Enforcement as required by this paragraph must be retained by the Department of Law Enforcement in a manner approved by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). The fingerprints must thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

4. The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under subparagraph 3. Any arrest record that is identified with an owner's or operator's fingerprints must be reported to the Department of Education. The Department of Education shall participate in this search process by paying an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the employment, engagement, or association status of the owners or operators whose fingerprints are retained under subparagraph 3. The Department of Law Enforcement shall adopt a rule setting the

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amount of the annual fee to be imposed upon the Department of Education for performing these services and establishing the procedures for the retention of owner and operator fingerprints and the dissemination of search results. The fee may be borne by the owner or operator of the nonprofit scholarship-funding organization.

5. A nonprofit scholarship-funding organization whose owner or operator fails the level 2 background screening is not eligible to provide scholarships under this section.

6. A nonprofit scholarship-funding organization whose owner or operator in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a corporation of which he or she owned more than 20 percent shall not be eligible to provide scholarships under this section.

7. In addition to the offenses listed in s. 435.04, a person required to undergo background screening pursuant to this part or authorizing statutes must not have an arrest awaiting final disposition for, must not have been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, and must not have been adjudicated delinquent, and the record must not have been sealed or expunged for, any of the following offenses or any similar offense of another jurisdiction:

- a. Any authorizing statutes, if the offense was a felony.
- b. This chapter, if the offense was a felony.
- c. Section 409.920, relating to Medicaid provider fraud.
- d. Section 409.9201, relating to Medicaid fraud.
- e. Section 741.28, relating to domestic violence.
- f. Section 817.034, relating to fraudulent acts through

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1451 mail, wire, radio, electromagnetic, photoelectronic, or
 1452 photooptical systems.

1453 g. Section 817.234, relating to false and fraudulent
 1454 insurance claims.

1455 h. Section 817.505, relating to patient brokering.

1456 i. Section 817.568, relating to criminal use of personal
 1457 identification information.

1458 j. Section 817.60, relating to obtaining a credit card
 1459 through fraudulent means.

1460 k. Section 817.61, relating to fraudulent use of credit
 1461 cards, if the offense was a felony.

1462 l. Section 831.01, relating to forgery.

1463 m. Section 831.02, relating to uttering forged instruments.

1464 n. Section 831.07, relating to forging bank bills, checks,
 1465 drafts, or promissory notes.

1466 o. Section 831.09, relating to uttering forged bank bills,
 1467 checks, drafts, or promissory notes.

1468 p. Section 831.30, relating to fraud in obtaining medicinal
 1469 drugs.

1470 q. Section 831.31, relating to the sale, manufacture,
 1471 delivery, or possession with the intent to sell, manufacture, or
 1472 deliver any counterfeit controlled substance, if the offense was
 1473 a felony.

1474

1475 Information and documentation provided to the Department of
 1476 Education and the Auditor General relating to the identity of a
 1477 taxpayer that provides an eligible contribution under this
 1478 section shall remain confidential at all times in accordance
 1479 with s. 213.053.

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1480 Section 32. For the purpose of incorporating the amendment
 1481 made by this act to section 435.04, Florida Statutes, in a
 1482 reference thereto, paragraphs (e), (m), and (p) of subsection
 1483 (1) of section 1002.421, Florida Statutes, are reenacted to
 1484 read:

1485 1002.421 State school choice scholarship program
 1486 accountability and oversight.—

1487 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
 1488 school participating in an educational scholarship program
 1489 established pursuant to this chapter must be a private school as
 1490 defined in s. 1002.01(2) in this state, be registered, and be in
 1491 compliance with all requirements of this section in addition to
 1492 private school requirements outlined in s. 1002.42, specific
 1493 requirements identified within respective scholarship program
 1494 laws, and other provisions of Florida law that apply to private
 1495 schools, and must:

1496 (e) Annually complete and submit to the department a
 1497 notarized scholarship compliance statement certifying that all
 1498 school employees and contracted personnel with direct student
 1499 contact have undergone background screening pursuant to s.
 1500 435.12 and have met the screening standards as provided in s.
 1501 435.04.

1502 (m) Require each employee and contracted personnel with
 1503 direct student contact, upon employment or engagement to provide
 1504 services, to undergo a state and national background screening,
 1505 pursuant to s. 943.0542, by electronically filing with the
 1506 Department of Law Enforcement a complete set of fingerprints
 1507 taken by an authorized law enforcement agency or an employee of
 1508 the private school, a school district, or a private company who

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is trained to take fingerprints and deny employment to or terminate an employee if he or she fails to meet the screening standards under s. 435.04. Results of the screening shall be provided to the participating private school. For purposes of this paragraph:

1. An "employee or contracted personnel with direct student contact" means any employee or contracted personnel who has unsupervised access to a scholarship student for whom the private school is responsible.

2. The costs of fingerprinting and the background check shall not be borne by the state.

3. Continued employment of an employee or contracted personnel after notification that he or she has failed the background screening under this paragraph shall cause a private school to be ineligible for participation in a scholarship program.

4. An employee or contracted personnel holding a valid Florida teaching certificate who has been fingerprinted pursuant to s. 1012.32 is not required to comply with the provisions of this paragraph.

5. All fingerprints submitted to the Department of Law Enforcement as required by this section shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

6. The Department of Law Enforcement shall search all

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arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under subparagraph 5. Any arrest record that is identified with the retained fingerprints of a person subject to the background screening under this section shall be reported to the employing school with which the person is affiliated. Each private school participating in a scholarship program is required to participate in this search process by informing the Department of Law Enforcement of any change in the employment or contractual status of its personnel whose fingerprints are retained under subparagraph 5. The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each private school for performing these searches and establishing the procedures for the retention of private school employee and contracted personnel fingerprints and the dissemination of search results. The fee may be borne by the private school or the person fingerprinted.

7. Employees and contracted personnel whose fingerprints are not retained by the Department of Law Enforcement under subparagraphs 5. and 6. are required to be refingerprinted and must meet state and national background screening requirements upon reemployment or reengagement to provide services in order to comply with the requirements of this section.

8. Every 5 years following employment or engagement to provide services with a private school, employees or contracted personnel required to be screened under this section must meet screening standards under s. 435.04, at which time the private school shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation

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for national processing. If the fingerprints of employees or contracted personnel are not retained by the Department of Law Enforcement under subparagraph 5., employees and contracted personnel must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the private school shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for national processing, and the fingerprints shall be retained by the Department of Law Enforcement under subparagraph 5.

(p) Require each owner or operator of the private school, prior to employment or engagement to provide services, to undergo level 2 background screening as provided under chapter 435. For purposes of this paragraph, the term "owner or operator" means an owner, operator, superintendent, or principal of, or a person with equivalent decisionmaking authority over, a private school participating in a scholarship program established pursuant to this chapter. The fingerprints for the background screening must be electronically submitted to the Department of Law Enforcement and may be taken by an authorized law enforcement agency or a private company who is trained to take fingerprints. However, the complete set of fingerprints of an owner or operator may not be taken by the owner or operator. The owner or operator shall provide a copy of the results of the state and national criminal history check to the Department of Education. The cost of the background screening may be borne by the owner or operator.

1. Every 5 years following employment or engagement to provide services, each owner or operator must meet level 2

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screening standards as described in s. 435.04, at which time the owner or operator shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for level 2 screening. If the fingerprints of an owner or operator are not retained by the Department of Law Enforcement under subparagraph 2., the owner or operator must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the owner or operator shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under subparagraph 2.

2. Fingerprints submitted to the Department of Law Enforcement as required by this paragraph must be retained by the Department of Law Enforcement in a manner approved by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). The fingerprints must thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

3. The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under subparagraph 2. Any arrest record that is identified with an owner's or operator's fingerprints must be reported to the owner or operator, who must report to the Department of Education. Any costs associated with the search shall be borne by the owner or operator.

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1625 4. An owner or operator who fails the level 2 background
 1626 screening is not eligible to participate in a scholarship
 1627 program under this chapter.

1628 5. In addition to the offenses listed in s. 435.04, a
 1629 person required to undergo background screening pursuant to this
 1630 part or authorizing statutes may not have an arrest awaiting
 1631 final disposition for, must not have been found guilty of, or
 1632 entered a plea of nolo contendere to, regardless of
 1633 adjudication, and must not have been adjudicated delinquent for,
 1634 and the record must not have been sealed or expunged for, any of
 1635 the following offenses or any similar offense of another
 1636 jurisdiction:

1637 a. Any authorizing statutes, if the offense was a felony.

1638 b. This chapter, if the offense was a felony.

1639 c. Section 409.920, relating to Medicaid provider fraud.

1640 d. Section 409.9201, relating to Medicaid fraud.

1641 e. Section 741.28, relating to domestic violence.

1642 f. Section 817.034, relating to fraudulent acts through
 1643 mail, wire, radio, electromagnetic, photoelectronic, or
 1644 photooptical systems.

1645 g. Section 817.234, relating to false and fraudulent
 1646 insurance claims.

1647 h. Section 817.505, relating to patient brokering.

1648 i. Section 817.568, relating to criminal use of personal
 1649 identification information.

1650 j. Section 817.60, relating to obtaining a credit card
 1651 through fraudulent means.

1652 k. Section 817.61, relating to fraudulent use of credit
 1653 cards, if the offense was a felony.

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1654 1. Section 831.01, relating to forgery.

1655 m. Section 831.02, relating to uttering forged instruments.

1656 n. Section 831.07, relating to forging bank bills, checks,
 1657 drafts, or promissory notes.

1658 o. Section 831.09, relating to uttering forged bank bills,
 1659 checks, drafts, or promissory notes.

1660 p. Section 831.30, relating to fraud in obtaining medicinal
 1661 drugs.

1662 q. Section 831.31, relating to the sale, manufacture,
 1663 delivery, or possession with the intent to sell, manufacture, or
 1664 deliver any counterfeit controlled substance, if the offense was
 1665 a felony.

1666 6. At least 30 calendar days before a transfer of ownership
 1667 of a private school, the owner or operator shall notify the
 1668 parent of each scholarship student.

1669 7. The owner or operator of a private school that has been
 1670 deemed ineligible to participate in a scholarship program
 1671 pursuant to this chapter may not transfer ownership or
 1672 management authority of the school to a relative in order to
 1673 participate in a scholarship program as the same school or a new
 1674 school. For purposes of this subparagraph, the term "relative"
 1675 means father, mother, son, daughter, grandfather, grandmother,
 1676 brother, sister, uncle, aunt, cousin, nephew, niece, husband,
 1677 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,
 1678 brother-in-law, sister-in-law, stepfather, stepmother, stepson,
 1679 stepdaughter, stepbrother, stepsister, half-brother, or half-
 1680 sister.

1681
 1682 The department shall suspend the payment of funds to a private

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school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Section 33. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, paragraph (d) of subsection (3) of section 1002.55, Florida Statutes, is reenacted to read:

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.—

(3) To be eligible to deliver the prekindergarten program, a private prekindergarten provider must meet each of the following requirements:

(d) Each prekindergarten instructor employed by the private prekindergarten provider must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked.

Section 34. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (5) of section 1002.61, Florida Statutes, is reenacted to read:

1002.61 Summer prekindergarten program delivered by public

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schools and private prekindergarten providers.—

(5) Each prekindergarten instructor employed by a public school or private prekindergarten provider delivering the summer prekindergarten program must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.

Section 35. For the purpose of incorporating the amendment made by this act to section 435.04, Florida Statutes, in a reference thereto, subsection (5) of section 1002.63, Florida Statutes, is reenacted to read:

1002.63 School-year prekindergarten program delivered by public schools.—

(5) Each prekindergarten instructor employed by a public school delivering the school-year prekindergarten program must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.

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1741 Section 36. For the purpose of incorporating the amendment
 1742 made by this act to section 435.04, Florida Statutes, in a
 1743 reference thereto, paragraph (e) of subsection (2) of section
 1744 1006.20, Florida Statutes, is reenacted to read:

1745 1006.20 Athletics in public K-12 schools.—

1746 (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

1747 (e) The FHSAA shall adopt bylaws that regulate persons who
 1748 conduct investigations on behalf of the FHSAA. The bylaws shall
 1749 include provisions that require an investigator to:

1750 1. Undergo level 2 background screening under s. 435.04,
 1751 establishing that the investigator has not committed any
 1752 disqualifying offense listed in s. 435.04, unless the
 1753 investigator can provide proof of compliance with level 2
 1754 screening standards submitted within the previous 5 years to
 1755 meet any professional licensure requirements, provided:

1756 a. The investigator has not had a break in service from a
 1757 position that requires level 2 screening for more than 90 days;
 1758 and

1759 b. The investigator submits, under penalty of perjury, an
 1760 affidavit verifying that the investigator has not committed any
 1761 disqualifying offense listed in s. 435.04 and is in full
 1762 compliance with this paragraph.

1763 2. Be appointed as an investigator by the executive
 1764 director.

1765 3. Carry a photo identification card that shows the FHSAA
 1766 name, logo, and the investigator's official title.

1767 4. Adhere to the following guidelines:

1768 a. Investigate only those alleged violations assigned by
 1769 the executive director or the board of directors.

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1770 b. Conduct interviews on Monday through Friday between the
 1771 hours of 9 a.m. and 7 p.m. only, unless previously agreed to by
 1772 the interviewee.

1773 c. Allow the parent of any student being interviewed to be
 1774 present during the interview.

1775 d. Search residences or other private areas only with the
 1776 permission of the executive director and the written consent of
 1777 the student's parent and only with a parent or a representative
 1778 of the parent present.

1779 Section 37. For the purpose of incorporating the amendment
 1780 made by this act to section 435.04, Florida Statutes, in a
 1781 reference thereto, section 1012.321, Florida Statutes, is
 1782 reenacted to read:

1783 1012.321 Exceptions for certain instructional personnel
 1784 from background screening requirements.—Instructional personnel
 1785 who are required to undergo level 2 background screening under
 1786 s. 393.0655 or s. 402.305 and who meet the level 2 screening
 1787 standards in s. 435.04 are not required to be rescreened in
 1788 order to satisfy the screening requirements in s. 1012.32 if the
 1789 instructional personnel:

1790 (1) Have completed the criminal history check within 5
 1791 years prior to having direct contact with students;

1792 (2) Are rescreened every 5 years and meet the level 2
 1793 screening standards; and

1794 (3) Have their fingerprints retained by the Department of
 1795 Law Enforcement.

1796 Section 38. For the purpose of incorporating the amendment
 1797 made by this act to section 435.04, Florida Statutes, in a
 1798 reference thereto, paragraph (b) of subsection (2) of section

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1799 1012.468, Florida Statutes, is reenacted to read:

1800 1012.468 Exceptions to certain fingerprinting and criminal
1801 history checks.—

1802 (2) A district school board shall exempt from the screening
1803 requirements set forth in ss. 1012.465 and 1012.467 the
1804 following noninstructional contractors:

1805 (b) Noninstructional contractors who are required by law to
1806 undergo a level 2 background screening pursuant to s. 435.04 for
1807 licensure, certification, employment, or other purposes and who
1808 submit evidence of meeting the following criteria:

1809 1. The contractor meets the screening standards in s.
1810 435.04;

1811 2. The contractor's license or certificate is active and in
1812 good standing, if the contractor is a licensee or
1813 certificateholder; and

1814 3. The contractor completed the criminal history check
1815 within 5 years prior to seeking access to school grounds when
1816 students are present.

1817 Section 39. For the purpose of incorporating the amendment
1818 made by this act to section 1012.315, Florida Statutes, in a
1819 reference thereto, paragraph (b) of subsection (4) of section
1820 1001.10, Florida Statutes, is reenacted to read:

1821 1001.10 Commissioner of Education; general powers and
1822 duties.—

1823 (4) The Department of Education shall:

1824 (b) Maintain a disqualification list that includes all of
1825 the following:

1826 1. The identity of each person who has been permanently
1827 denied an educator certificate or whose educator certificate has

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1828 been permanently revoked and has been placed on the list as
1829 directed by the Education Practices Commission pursuant to s.
1830 1012.795(1) or s. 1012.796(7).

1831 2. The identity of each person who has been permanently
1832 disqualified by the commissioner from owning or operating a
1833 private school that participates in state scholarship programs
1834 under s. 1002.421.

1835 3. The identity of each person who has been terminated, or
1836 has resigned in lieu of termination, from employment as a result
1837 of sexual misconduct with a student.

1838 4. The identity of each person who is ineligible for
1839 educator certification or employment pursuant to s. 1012.315.

1840 Section 40. For the purpose of incorporating the amendment
1841 made by this act to section 1012.315, Florida Statutes, in a
1842 reference thereto, subsection (6) of section 1001.42, Florida
1843 Statutes, is reenacted to read:

1844 1001.42 Powers and duties of district school board.—The
1845 district school board, acting as a board, shall exercise all
1846 powers and perform all duties listed below:

1847 (6) STANDARDS OF ETHICAL CONDUCT.—Adopt policies
1848 establishing standards of ethical conduct for educational
1849 support employees, instructional personnel, administrative
1850 personnel, and school officers. The policies must require all
1851 educational support employees, instructional personnel,
1852 administrative personnel, and school officers, as defined in s.
1853 1012.01, to complete training on the standards; establish the
1854 duty of educational support employees, instructional personnel,
1855 administrative personnel, and school officers to report, and
1856 procedures for reporting, alleged misconduct by other

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1857 educational support employees, instructional or administrative
 1858 personnel, and school officers which affects the health, safety,
 1859 or welfare of a student, including misconduct that involves
 1860 engaging in or soliciting sexual, romantic, or lewd conduct with
 1861 a student; require the district school superintendent to report
 1862 to law enforcement misconduct by educational support employees,
 1863 instructional personnel, or school administrators that would
 1864 result in disqualification from educator certification or
 1865 employment as provided in s. 1012.315; and include an
 1866 explanation of the liability protections provided under ss.
 1867 39.203 and 768.095. A district school board, or any of its
 1868 employees or personnel, may not enter into a confidentiality
 1869 agreement regarding terminated or dismissed educational support
 1870 employees, instructional or administrative personnel, or school
 1871 officers who resign in lieu of termination, based in whole or in
 1872 part on misconduct that affects the health, safety, or welfare
 1873 of a student, and may not provide educational support employees,
 1874 instructional personnel, administrative personnel, or school
 1875 officers with employment references or discuss the employees',
 1876 personnel's, or officers' performance with prospective employers
 1877 in another educational setting, without disclosing the
 1878 employees', personnel's, or officers' misconduct. Any part of an
 1879 agreement or contract that has the purpose or effect of
 1880 concealing misconduct by educational support employees,
 1881 instructional personnel, administrative personnel, or school
 1882 officers which affects the health, safety, or welfare of a
 1883 student is void, is contrary to public policy, and may not be
 1884 enforced.

1885 Section 41. For the purpose of incorporating the amendment

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1886 made by this act to section 1012.315, Florida Statutes, in a
 1887 reference thereto, paragraph (b) of subsection (12) of section
 1888 1001.51, Florida Statutes, is reenacted to read:

1889 1001.51 Duties and responsibilities of district school
 1890 superintendent.—The district school superintendent shall
 1891 exercise all powers and perform all duties listed below and
 1892 elsewhere in the law, provided that, in so doing, he or she
 1893 shall advise and counsel with the district school board. The
 1894 district school superintendent shall perform all tasks necessary
 1895 to make sound recommendations, nominations, proposals, and
 1896 reports required by law to be acted upon by the district school
 1897 board. All such recommendations, nominations, proposals, and
 1898 reports by the district school superintendent shall be either
 1899 recorded in the minutes or shall be made in writing, noted in
 1900 the minutes, and filed in the public records of the district
 1901 school board. It shall be presumed that, in the absence of the
 1902 record required in this section, the recommendations,
 1903 nominations, and proposals required of the district school
 1904 superintendent were not contrary to the action taken by the
 1905 district school board in such matters.

1906 (12) RECORDS AND REPORTS.—Recommend such records as should
 1907 be kept in addition to those prescribed by rules of the State
 1908 Board of Education; prepare forms for keeping such records as
 1909 are approved by the district school board; ensure that such
 1910 records are properly kept; and make all reports that are needed
 1911 or required, as follows:

1912 (b) *Reports to the department.*—Prepare, for the approval of
 1913 the district school board, all reports required by law or rules
 1914 of the State Board of Education to be made to the department and

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1915 transmit promptly all such reports, when approved, to the
 1916 department, as required by law. If any reports are not
 1917 transmitted at the time and in the manner prescribed by law or
 1918 by State Board of Education rules, the salary of the district
 1919 school superintendent must be withheld until the report has been
 1920 properly submitted. Unless otherwise provided by rules of the
 1921 State Board of Education, the annual report on attendance and
 1922 personnel is due on or before July 1, and the annual school
 1923 budget and the report on finance are due on the date prescribed
 1924 by the commissioner.

1925
 1926 Any district school superintendent who knowingly signs and
 1927 transmits to any state official a report that the superintendent
 1928 knows to be false or incorrect; who knowingly fails to complete
 1929 the investigation of any allegation of misconduct that affects
 1930 the health, safety, or welfare of a student, that would be a
 1931 violation of s. 800.101, or that would be a disqualifying
 1932 offense under s. 1012.315, or any allegation of sexual
 1933 misconduct with a student; who knowingly fails to report the
 1934 alleged misconduct to the department as required in s. 1012.796;
 1935 or who knowingly fails to report misconduct to the law
 1936 enforcement agencies with jurisdiction over the conduct pursuant
 1937 to district school board policy under s. 1001.42(6), forfeits
 1938 his or her salary for 1 year following the date of such act or
 1939 failure to act.

1940 Section 42. For the purpose of incorporating the amendment
 1941 made by this act to section 1012.315, Florida Statutes, in a
 1942 reference thereto, paragraph (g) of subsection (12) of section
 1943 1002.33, Florida Statutes, is reenacted to read:

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1944 1002.33 Charter schools.—

1945 (12) EMPLOYEES OF CHARTER SCHOOLS.—

1946 (g)1. A charter school shall employ or contract with
 1947 employees who have undergone background screening as provided in
 1948 s. 1012.32. Members of the governing board of the charter school
 1949 shall also undergo background screening in a manner similar to
 1950 that provided in s. 1012.32. An individual may not be employed
 1951 as an employee or contract personnel of a charter school or
 1952 serve as a member of a charter school governing board if the
 1953 individual is on the disqualification list maintained by the
 1954 department pursuant to s. 1001.10(4)(b).

1955 2. A charter school shall prohibit educational support
 1956 employees, instructional personnel, and school administrators,
 1957 as defined in s. 1012.01, from employment in any position that
 1958 requires direct contact with students if the employees,
 1959 personnel, or administrators are ineligible for such employment
 1960 under s. 1012.315 or have been terminated or have resigned in
 1961 lieu of termination for sexual misconduct with a student. If the
 1962 prohibited conduct occurs while employed, a charter school must
 1963 report the individual and the disqualifying circumstances to the
 1964 department for inclusion on the disqualification list maintained
 1965 pursuant to s. 1001.10(4)(b).

1966 3. The governing board of a charter school shall adopt
 1967 policies establishing standards of ethical conduct for
 1968 educational support employees, instructional personnel, and
 1969 school administrators. The policies must require all educational
 1970 support employees, instructional personnel, and school
 1971 administrators, as defined in s. 1012.01, to complete training
 1972 on the standards; establish the duty of educational support

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employees, instructional personnel, and school administrators to report, and procedures for reporting, alleged misconduct that affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A charter school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed educational support employees, instructional personnel, or school administrators, or employees, personnel, or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide employees, personnel, or administrators with employment references or discuss the employees', personnel's, or administrators' performance with prospective employers in another educational setting, without disclosing the employees', personnel's, or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by educational support employees, instructional personnel, or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

4. Before employing an individual in any position that requires direct contact with students, a charter school shall conduct employment history checks of each individual through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the charter school must document efforts to contact the employer.

5. The sponsor of a charter school that knowingly fails to

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comply with this paragraph shall terminate the charter under subsection (8).

Section 43. For the purpose of incorporating the amendment made by this act to section 1012.315, Florida Statutes, in a reference thereto, paragraph (d) of subsection (6) of section 1002.333, Florida Statutes, is reenacted to read:

1002.333 Persistently low-performing schools.—

(6) STATUTORY AUTHORITY.—

(d) A hope operator may employ school administrators and instructional personnel who do not meet the requirements of s. 1012.56 if the school administrators and instructional personnel are not ineligible for such employment under s. 1012.315.

Section 44. For the purpose of incorporating the amendment made by this act to section 1012.315, Florida Statutes, in a reference thereto, paragraph (r) of subsection (1) of section 1002.421, Florida Statutes, is reenacted to read:

1002.421 State school choice scholarship program accountability and oversight.—

(1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private school participating in an educational scholarship program established pursuant to this chapter must be a private school as defined in s. 1002.01(2) in this state, be registered, and be in compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(r) Prohibit education support employees, instructional personnel, and school administrators from employment in any

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position that requires direct contact with students if the personnel or administrators are ineligible for such employment pursuant to this section or s. 1012.315, or have been terminated or have resigned in lieu of termination for sexual misconduct with a student. If the prohibited conduct occurs subsequent to employment, the private school must report the person and the disqualifying circumstances to the department for inclusion on the disqualification list maintained pursuant to s. 1001.10(4)(b).

The department shall suspend the payment of funds to a private school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Section 45. For the purpose of incorporating the amendment made by this act to section 1012.315, Florida Statutes, in a reference thereto, Subsection (1) of section 1012.32, Florida Statutes, is reenacted to read:

1012.32 Qualifications of personnel.—

(1) To be eligible for appointment in any position in any district school system, a person must be of good moral character; must have attained the age of 18 years, if he or she is to be employed in an instructional capacity; must not be ineligible for such employment under s. 1012.315; and must, when

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required by law, hold a certificate or license issued under rules of the State Board of Education or the Department of Children and Families, except when employed pursuant to s. 1012.55 or under the emergency provisions of s. 1012.24. Previous residence in this state shall not be required in any school of the state as a prerequisite for any person holding a valid Florida certificate or license to serve in an instructional capacity.

Section 46. For the purpose of incorporating the amendment made by this act to section 1012.315, Florida Statutes, in a reference thereto, paragraphs (a) and (d) of subsection (10) of section 1012.56, Florida Statutes, are reenacted to read:

1012.56 Educator certification requirements.—

(10) BACKGROUND SCREENING REQUIRED, INITIALLY AND PERIODICALLY.—

(a) Each person who seeks certification under this chapter must be fingerprinted and screened in accordance with s. 1012.32 and must not be ineligible for such certification under s. 1012.315. A person who has been screened in accordance with s. 1012.32 by a district school board or the Department of Education within 12 months before the date the person initially obtains certification under this chapter, the results of which are submitted to the district school board or to the Department of Education, is not required to repeat the screening under this paragraph.

(d) If it is found under s. 1012.796 that a person who is employed in a position requiring certification under this chapter has not been screened in accordance with s. 1012.32, or is ineligible for such certification under s. 1012.315, the

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person's certification shall be immediately revoked or suspended and he or she shall be immediately suspended from the position requiring certification.

Section 47. For the purpose of incorporating the amendment made by this act to section 1012.315, Florida Statutes, in a reference thereto, subsection (1) of section 1012.795, Florida Statutes, is reenacted to read:

1012.795 Education Practices Commission; authority to discipline.—

(1) The Education Practices Commission may suspend the educator certificate of any instructional personnel or school administrator, as defined in s. 1012.01(2) or (3), for up to 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the person may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to subsection (4); may permanently revoke the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend a person's educator certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; may direct the department to place a certificateholder employed by a public school, charter school,

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charter school governing board, or private school that participates in a state scholarship program under chapter 1002 on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b) for misconduct that would render the person ineligible pursuant to s. 1012.315 or sexual misconduct with a student; or may impose any other penalty provided by law, if the person:

(a) Obtained or attempted to obtain an educator certificate by fraudulent means.

(b) Knowingly failed to report actual or suspected child abuse as required in s. 1006.061 or report alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student as required in s. 1012.796.

(c) Has proved to be incompetent to teach or to perform duties as an employee of the public school system or to teach in or to operate a private school.

(d) Has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education, including engaging in or soliciting sexual, romantic, or lewd conduct with a student or minor.

(e) Has had an educator certificate or other professional license sanctioned by this or any other state or has had the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including a denial of certification or licensure, by the licensing or certifying authority of any jurisdiction, including its agencies and subdivisions. The licensing or certifying authority's acceptance of a relinquishment, stipulation, consent order, or other

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settlement offered in response to or in anticipation of the filing of charges against the licensee or certificateholder shall be construed as action against the license or certificate. For purposes of this section, a sanction or action against a professional license, a certificate, or an authority to practice a regulated profession must relate to being an educator or the fitness of or ability to be an educator.

(f) Has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation.

(g) Upon investigation, has been found guilty of personal conduct that seriously reduces that person's effectiveness as an employee of the district school board.

(h) Has breached a contract, as provided in s. 1012.33(2) or s. 1012.335.

(i) Has been the subject of a court order or notice by the Department of Revenue pursuant to s. 409.2598 directing the Education Practices Commission to suspend the certificate as a result of noncompliance with a child support order, a subpoena, an order to show cause, or a written agreement with the Department of Revenue.

(j) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

(k) Has otherwise violated the provisions of law, the penalty for which is the revocation of the educator certificate.

(l) Has violated any order of the Education Practices Commission.

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(m) Has been the subject of a court order or plea agreement in any jurisdiction which requires the certificateholder to surrender or otherwise relinquish his or her educator's certificate. A surrender or relinquishment shall be for permanent revocation of the certificate. A person may not surrender or otherwise relinquish his or her certificate prior to a finding of probable cause by the commissioner as provided in s. 1012.796.

(n) Has been disqualified from educator certification under s. 1012.315.

(o) Has committed a third recruiting offense as determined by the Florida High School Athletic Association (FHSAA) pursuant to s. 1006.20(2)(b).

(p) Has violated test security as provided in s. 1008.24.

Section 48. For the purpose of incorporating the amendment made by this act to section 1012.315, Florida Statutes, in a reference thereto, paragraph (i) of subsection (7) of section 1012.796, Florida Statutes, is reenacted to read:

1012.796 Complaints against teachers and administrators; procedure; penalties.—

(7) A panel of the commission shall enter a final order either dismissing the complaint or imposing one or more of the following penalties:

(i) Direct the department to place instructional personnel or school administrators on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b) for conduct that would render the person ineligible pursuant to s. 1012.315 or sexual misconduct with a student.

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2205 The penalties imposed under this subsection are in addition to,
 2206 and not in lieu of, the penalties required for a third
 2207 recruiting offense pursuant to s. 1006.20(2)(b).

2208 Section 49. For the purpose of incorporating the amendment
 2209 made by this act to section 1012.467, Florida Statutes, in a
 2210 reference thereto, subsection (2) and paragraph (a) of
 2211 subsection (3) of section 1012.468, Florida Statutes, are
 2212 reenacted to read:

2213 1012.468 Exceptions to certain fingerprinting and criminal
 2214 history checks.—

2215 (2) A district school board shall exempt from the screening
 2216 requirements set forth in ss. 1012.465 and 1012.467 the
 2217 following noninstructional contractors:

2218 (a)1. Noninstructional contractors who are under the direct
 2219 supervision of a school district employee or contractor who has
 2220 had a criminal history check and meets the screening
 2221 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.
 2222 1012.56. For purposes of this paragraph, the term "direct
 2223 supervision" means that a school district employee or contractor
 2224 is physically present with a noninstructional contractor when
 2225 the contractor has access to a student and the access remains in
 2226 the school district employee's or the contractor's line of
 2227 sight.

2228 2. If a noninstructional contractor who is exempt under
 2229 this subsection is no longer under direct supervision as
 2230 specified in subparagraph 1., the contractor may not be
 2231 permitted on school grounds when students are present until the
 2232 contractor meets the screening requirements in s. 1012.465 or s.
 2233 1012.467.

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2234 (b) Noninstructional contractors who are required by law to
 2235 undergo a level 2 background screening pursuant to s. 435.04 for
 2236 licensure, certification, employment, or other purposes and who
 2237 submit evidence of meeting the following criteria:

2238 1. The contractor meets the screening standards in s.
 2239 435.04;

2240 2. The contractor's license or certificate is active and in
 2241 good standing, if the contractor is a licensee or
 2242 certificateholder; and

2243 3. The contractor completed the criminal history check
 2244 within 5 years prior to seeking access to school grounds when
 2245 students are present.

2246 (c) A law enforcement officer, as defined in s. 943.10, who
 2247 is assigned or dispatched to school grounds by his or her
 2248 employer.

2249 (d) An employee or medical director of an ambulance
 2250 provider, licensed pursuant to chapter 401, who is providing
 2251 services within the scope of part III of chapter 401 on behalf
 2252 of such ambulance provider.

2253 (e) Noninstructional contractors who remain at a site where
 2254 students are not permitted if the site is separated from the
 2255 remainder of the school grounds by a single chain-link fence of
 2256 6 feet in height.

2257 (f) A noninstructional contractor who provides pickup or
 2258 delivery services and those services involve brief visits on
 2259 school grounds when students are present.

2260 (g) An investigator for the Florida High School Athletic
 2261 Association (FHSAA) who meets the requirements under s.
 2262 1006.20(2)(e).

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2263 (3) (a) A noninstructional contractor who is exempt under
2264 this section from the screening requirements set forth in s.
2265 1012.465 or s. 1012.467 is subject to a search of his or her
2266 name or other identifying information against the registration
2267 information regarding sexual predators and sexual offenders
2268 maintained by the Department of Law Enforcement under s. 943.043
2269 and the National Sex Offender Public Registry maintained by the
2270 United States Department of Justice. The school district shall
2271 conduct the search required under this subsection without charge
2272 or fee to the contractor.

2273 Section 50. For the 2023-2024 fiscal year, the sums of
2274 \$285,367 in recurring funds from the Health Care Trust Fund and
2275 \$581,064 in nonrecurring funds from the Health Care Trust Fund
2276 are appropriated to the Agency for Health Care Administration
2277 and five full-time equivalent positions with associated salary
2278 rate of 173,431 are authorized for the purpose of implementing
2279 this act.

2280 Section 51. This act shall take effect July 1, 2024.



2023 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION

BILL NUMBER:	SB 676
BILL TITLE:	Background Screenings
BILL SPONSOR:	Senator Grall
EFFECTIVE DATE:	7/1/2024

COMMITTEES OF REFERENCE

1)
2)
3)
4)
5)

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

CURRENT COMMITTEE

--

SIMILAR BILLS

BILL NUMBER:	HB 249
SPONSOR:	Trabulsy

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 14, 2023
LEAD AGENCY ANALYST:	Lucy Saunders
ADDITIONAL ANALYST(S):	Ashley Black, Josh Gray, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Jason Harrison
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Revising level 2 screening requirements; requiring the Care Provider Background Screening Clearinghouse to allow the results of certain screenings after a certain date to be shared among specified agencies and qualified entities; revising requirements relating to background screenings for independent sanctioning authorities; revising requirements for the Criminal Justice Information Program relating to fingerprint searches; revising screening standard requirements for educator certification or employment in positions that require direct contact with certain students, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** The Volunteer and Employee Criminal History System (VECHS) Program was implemented by the Florida Department of Law Enforcement (FDLE) in 1999 and is authorized by the National Child Protection Act (NCPA) of 1993, as amended, and s. 943.0542, F.S. FDLE is designated as the department under which qualified entities must register with before submitting requests for screening the entity's employees and/or volunteers. Each qualified entity is assigned an Originating Agency Identifier (ORI) number by FDLE to facilitate such screenings and are periodically audited to ensure compliance with federal law and s. 943.0542, F.S. Generally, qualified entities may voluntarily elect to retain the fingerprints of their employees and/or volunteers within the statewide automated biometric identification system; however, pursuant to s. 1002.421, F.S., a private school participating in an educational scholarship program, must require each employee and contracted personnel with direct student contact to have their fingerprints retained within this system. Lastly, pursuant to s. 943.0438, F.S., independent sanctioning authorities conduct level 1 background screenings (i.e., Florida [state-only]), name-based criminal history record checks), pursuant to s. 435.03, F.S., on each current and prospective athletic coach and do not retain applicant fingerprints within the statewide automated biometric identification system.
2. **EFFECT OF THE BILL:** Amends s. 435.02, F.S., by adding a definition for the term "affiliation", which means employment by or serving as a volunteer or contractor with a qualified entity in a position for which screening is not required by law but which is allowed under the National Child Protection Act (NCPA) of 1993, as amended. Amends s. 435.04, F.S., by requiring a search of criminal history records, sexual predator and sexual offender registries, and child abuse and neglect registries of any state in which the current or prospective employee resided during the preceding five (5) years. Such background investigations, may include local criminal records checks through local law enforcement agencies and adding disqualifying offenses. Amends s. 435.12, F.S., by authorizing qualified entities to participate in the Care Provider Background Screening Clearinghouse (Clearinghouse) (pursuant to the proposed amended requirements of s. 943.0542, F.S.) which enables such entities to initiate screenings through FDLE or the Clearinghouse; if entities elect to participate in the Clearinghouse, they are required to retain applicant fingerprints in the statewide automated biometric identification system and federal fingerprint retention program (i.e., the National Rap Back Service). Additionally, the proposed language requires the Clearinghouse to allow the results of criminal history checks provided to the specified agencies and, beginning January 1, 2025, qualified entities participating in the Clearinghouse to be shared among the specified agencies and qualified entities. Lastly, s. 943.0438, F.S., is amended to require independent sanctioning authorities to conduct Level 2 background screenings (i.e., fingerprint-based, Florida [state] and national criminal history record checks) on current and prospective athletic coaches through participation in the VECHS Program.
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
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Provide a summary of the proponents' and opponents' positions:	
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number:	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☐

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐

Revenues:	<p>The bill will generate unknown revenue as the estimated number of individuals falling within the following four (4) areas is undetermined and at the discretion of the qualified entity:</p> <p><u>VECHS Employees screened through the Clearinghouse</u></p> <p>The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse is</p>
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	<p>\$48 for employees who provide services to children, the elderly, or individuals with disabilities. The cost for the Florida (state) portion of a state and national criminal history record check is \$24 for employees who provide services to children, the elderly, or individuals with disabilities. Since persons screened pursuant to this bill are eligible be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in in the federal retention program, there will be no fees required by the Federal Bureau of Investigation (FBI) for federal fingerprint retention.</p> <p><u>VECHS Volunteers screened through the Clearinghouse</u> The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse is \$42 for volunteers who provide services to children, the elderly, or individuals with disabilities. The cost for the Florida (state) portion of a state and national criminal history record check is \$18 for volunteers who provide services to children, the elderly, or individuals with disabilities. Since persons screened pursuant to this bill are eligible be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.</p> <p><u>Current and prospective athletic coaches screened through the Clearinghouse</u> The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse retention is \$48. These fees will go into the FDLE's Operating Trust Fund. The cost for Florida (state-level) criminal history record checks is \$24. Since persons screened pursuant to this bill are eligible be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.</p> <p><u>Current and prospective athletic coaches not screened through the Clearinghouse (no fingerprint retention)</u> The total fiscal revenue for the Florida (state) portion of a state and national criminal history record check is \$24, which goes into FDLE's Operating Trust Fund.</p>
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☒ N ☐

Revenues:	
Expenditures:	<p><u>VECHS Employees screened through the Clearinghouse</u> The total fiscal impact to the private sector for state and national criminal history record checks with five (5) years of Clearinghouse retention is \$61.25. Of this total amount, the cost for a state and national criminal history record check is \$37.25; the cost for the national portion of the criminal history record check is \$13.25 and the cost for the state portion is \$24, which goes into FDLE's Operating Trust Fund. Since persons screened pursuant to this bill are eligible be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in in the federal retention</p>

	<p>program, there will be no fees required by the Federal Bureau of Investigation (FBI) for federal fingerprint retention.</p> <p><u>VECHS Volunteers screened through the Clearinghouse</u></p> <p>The total fiscal impact to the private sector for state and national criminal history record checks with five (5) years of Clearinghouse retention is \$53.25. Of this total amount, the cost for a state and national criminal history record check is \$29.25; the cost for the national portion of the criminal history record check is \$11.25 and the cost for the state portion is \$18, which goes into FDLE's Operating Trust Fund. Since persons screened pursuant to this bill are eligible be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.</p> <p><u>Current and prospective athletic coaches screened through the Clearinghouse</u></p> <p>The total fiscal impact to the private sector for state and national criminal history record checks with five (5) years of Clearinghouse retention is \$61.25. Of this total amount, the cost for a state and national criminal history record check is \$37.25; the cost for the national portion of the criminal history record check is \$13.25 and the cost for the state portion is \$24, which goes into FDLE's Operating Trust Fund. Since persons screened pursuant to this bill are eligible be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.</p> <p><u>Current and prospective athletic coaches not screened through the Clearinghouse (no fingerprint retention)</u></p> <p>The total fiscal impact to the private sector for a state and national criminal history record check is \$37.25. Of this total amount, the cost for the national portion of the criminal history record check is \$13.25 and the cost for the state portion is \$24, which goes into FDLE's Operating Trust Fund.</p> <p><u>Additional Fees</u></p> <p>Livescan Service Providers may assess additional processing fees, in addition to the cost of the criminal history record check fee imposed by FDLE and the FBI.</p>
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☐

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	The impact of this bill is unknown. FDLE would need to know the estimated number of individuals that fall under the scope of this bill.
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	Although there is no programming required, if it is decided that VECHS entities will retain their applicants in the Clearinghouse, this bill combined with other background screening bills adds to the workload on FDLE's Biometric Identification System. FDLE is currently in the process of migrating the current system to the new generation of Biometric Identification Systems. With the state and capacity limitations of the current system, this could cause undue strain.
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FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☐

If yes, describe the anticipated impact including any fiscal impact.	
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LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	<ul style="list-style-type: none"> Any additional changes on the sharing of criminal history record information may have issues at the federal level, depending on how recently the background check was conducted as compared to the later request for the information by a new entity.
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ADDITIONAL COMMENTS

- Lines 120-133: It should be noted that the FDLE fingerprint-based, Level 2 background screening results only consist of state and national criminal history record information (CHRI). All other information or documentation required for the purposes of the background investigation must be separately obtained by the specified agency. Additionally, any agency requiring criminal history record checks pursuant to s. 435.04, F.S., regardless of whether they service a vulnerable population, would be required to search the referenced additional information.
- Lines 189-264; 434-447: As written, is it unclear if the intent of the bill is to move the formal registration process of qualified entities from FDLE to the Clearinghouse or if the process (with the exception of screenings) should remain with FDLE. Section 943.0542, F.S., designates FDLE as the agency responsible for the registration of qualified entities, which includes the initial and ongoing vetting of qualified entities to determine eligibility and issuing an Originating Agency Identifier (ORI) number which facilitates the process of fingerprint-based screenings. FDLE recommends that the bill specify which agency is responsible for the administration of the VECHS Program. If the intent is for the registration process to transition from FDLE to the Clearinghouse, FDLE recommends that a liaison be established between the two agencies to ensure a successful transition. Additionally, the Clearinghouse must establish forms, processes, and codify rules, similar to those within Florida Administrative Code (FAC) 11C-6.004.
- Lines 199-209; 246-250: FDLE recommends that qualified entities participating in the Clearinghouse be further defined to specify who is included within this population and/or if there are certain exceptions.
- Lines 246-252: Federal Bureau of Investigation (FBI) policy requires that when applicants are enrolled in the national retained print arrest notification program (i.e., National Rap Back) and have a change in status, the applicant's subscription must be removed within five (5) business days from the final determination of the applicant's ineligibility.
- Currently, qualified entities registered through the FDLE's VECHS Program, entities screened through the Clearinghouse, and the Florida Department of Education (DOE) are subject to differing screening authorities (i.e., purpose codes), which allows the regulatory agency access to certain criminal history information. As such, the

Clearinghouse must be prepared to accommodate the limitations of each purpose code by ensuring proper receipt and dissemination of CHRI to each specified agency and amongst qualified entities.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 736

INTRODUCER: Senator Brodeur

SUBJECT: Controlled Substances

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Pre-meeting
2. _____	_____	FP	_____

I. Summary:

SB 736 adds nitazene derivatives (“nitazenes”), which are synthetic opioids, to the list of Schedule I controlled substances. Many of these nitazenes are currently Schedule 1 controlled substances pursuant to emergency rule of the Florida Attorney General. The bill will codify this scheduling. There is a Schedule I scheduling exception for any listed nitazene that is specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration.

The Legislature’s Office of Economic and Demographic Research preliminary estimates that the House companion bill (HB 1135), which is similar to SB 736, will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”¹ of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

¹ Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

Controlled Substance Offenses Under ss. 893.135 and 893.135, F.S.

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.² The penalty for violating s. 893.13, F.S., generally depends on the act committed, the substance and quantity of the substance involved, and the location in which the violation occurred.

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of such controlled substances, and the controlled substances involved in the trafficking must meet a specified weight or quantity threshold.

Emergency Rule Scheduling of Nitazenes

On April 26, 2022, Florida Attorney General Ashley Moody (“AG”) adopted an emergency rule scheduling³ the following nitazenes, which are synthetic opioids, as Schedule I controlled Substances:

- Butonitazene;
- Etodesnitazene/etazene;

² See e.g., s. 893.13(1)(a) and (b) and (6), F.S.

³ The Attorney General has emergency rulemaking authority to add a substance to a controlled substance schedule established under s. 893.03, F.S., if she finds that it has the potential for abuse and she makes with respect to it the other findings appropriate for classification in the particular schedule under s. 893.03, F.S. Section 893.035(2)(a) and (5)-(8), F.S. The Attorney General must report to the Legislature by March 1 of each year concerning rules adopted under s. 893.035, F.S., during the previous year, and each rule so reported expires the following June 30 unless the Legislature adopts the provisions thereof as an amendment to ch. 893, F.S. Section 893.035(10), F.S.

- Flunitazene;
- Metodesnitazene;
- Metonitazene;
- N-Pyrrolidino Etonitazene/etonitazephyne;
- Protonitazene;
- Isotodesnitazene; and
- Isotonitazene.⁴

AG findings in support of the emergency scheduling include the following information:

- “Nitazenes are within a category of synthetic opioids in the benzimidazole-opioid class” that were developed in Swiss research labs in the 1950’s as analgesics but the research did not lead to an accepted medical use anywhere in the world.
- The chemical structure of the listed nitazenes is dissimilar to any currently scheduled substance in Schedule I under s. 893.03, F.S.
- Many of the listed nitazenes have emerged in the illicit drug market and are easily available in that market. It is believed they are primarily produced in China and shipped to the United States through common mail carrier.
- Nitazenes have been primarily found in liquid form, or brown, white, or gray powders, though they are often mixed with other opioids, including fentanyl.
- The Florida Department of Law Enforcement and the U.S. Drug Enforcement Administration (DEA) have found the listed nitazenes have a high potential for abuse and no currently accepted medical use in the United States. Several of the listed nitazenes are more potent than fentanyl and morphine.
- Severe side effects include respiratory depression, loss of consciousness, and death.
- The AG identified 268 nitrazene cases in Florida since 2020 and suspects there are more cases than reported.
- The medical examiner reported five confirmed deaths related to N-Pyrrolidino Etonitazene/etonitazephyne in Pinellas/Pasco counties since 2021, and three other suspected cases.
- Isotonitazene has been linked to at least 10 deaths in Florida since 2020, according to the Florida Medical Examiners Commission.
- Isotonitazene is classified as a Schedule I controlled substance under federal law, and, effective January 5, 2022, several of the listed nitazenes were temporarily placed in Schedule I by the DEA.⁵

III. Effect of Proposed Changes:

The bill adds several nitazene derivatives, which are synthetic opioids, to the list of Schedule I controlled substances, unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration.

⁴ Adoption text for Emergency Rule 2ER22-1, Department of Legal Affairs, available at [http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CDUPT2/\\$file/Web+Link.pdf](http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CDUPT2/$file/Web+Link.pdf) (last visited on March 6, 2023).

⁵ *Findings of the Attorney General in Support of Emergency Rule 2ER22-1*, Department of Legal Affairs, available at [http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CDUPT2/\\$file/Web+Link.pdf](http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CDUPT2/$file/Web+Link.pdf) (last visited on March 6, 2023).

The nitazene derivatives include any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, whenever the existence of such salts is possible within any of the following specific chemical designations containing a benzimidazole ring with an ethylamine¹ substitution at the 1-position and a benzyl ring substitution at the 2-position structure:

- With or without substitution on the benzimidazole ring with alkyl, alkoxy, carboalkoxy, amino, nitro, or aryl groups, or halogens;
- With or without substitution at the ethylamine amino moiety with alkyl, dialkyl, acetyl, or benzyl groups, whether or not further substituted in the ring system;
- With or without inclusion of the ethylamine amino moiety in a cyclic structure;
- With or without substitution of the benzyl ring; or
- With or without replacement of the benzyl ring with an aromatic ring, including, but not limited to:
 - Butonitazene.
 - Clonitazene.
 - Etodesnitazene.
 - Etonitazene.
 - Flunitazene.
 - Isotodesnitazene.
 - Isotonitazene.
 - Metodesnitazene.
 - Metonitazene.
 - Nitazene.
 - N-Desethyl Etonitazene.
 - N-Desethyl Isotonitazene.
 - N-Piperidino Etonitazene.
 - N-Pyrrolidino Etonitazene.
 - Protonitazene.

Many of these nitazene derivatives are currently Schedule 1 controlled substances pursuant to emergency rule scheduling of the Florida Attorney General.⁶

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

⁶ See “Present Situation” section of this analysis.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimates that the House companion bill, (HB 1135), which is similar to SB 736, will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).⁷

The EDR provided the following information relevant to its estimate:

Per [Department of Corrections], in FY 18-19, there were 1,689 new commitments to prison for the Schedule I drug offense category where nitazene derivatives will be included, and in FY 19-20, there were 931 new commitments. In FY 20-21, there were 779 new commitments, and there were 1,016 new commitments in FY 21-22. This drug offense category contains various kinds of drugs, so it is not possible to see how each drug contributes to the total number of new commitments. It is also not known how the addition of nitazene derivatives will impact the prison population. Furthermore, it is possible that the new commitments in the latter half of FY 21-22 have already been impacted by the Attorney General temporarily adding nitazene derivatives to Schedule I controlled substances in April of 2022.⁸

⁷ *HB 1135 – Nitazene Derivatives (Similar SB 736)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

⁸ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.03 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Brodeur

10-00876-23

2023736__

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; adding nitazene derivatives to the list
 4 of Schedule I controlled substances; providing an
 5 effective date.
 6
 7 Be It Enacted by the Legislature of the State of Florida:
 8
 9 Section 1. Paragraph (a) of subsection (1) of section
 10 893.03, Florida Statutes, is amended to read:
 11 893.03 Standards and schedules.—The substances enumerated
 12 in this section are controlled by this chapter. The controlled
 13 substances listed or to be listed in Schedules I, II, III, IV,
 14 and V are included by whatever official, common, usual,
 15 chemical, trade name, or class designated. The provisions of
 16 this section shall not be construed to include within any of the
 17 schedules contained in this section any excluded drugs listed
 18 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 19 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 20 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 21 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 22 Anabolic Steroid Products."
 23 (1) SCHEDULE I.—A substance in Schedule I has a high
 24 potential for abuse and has no currently accepted medical use in
 25 treatment in the United States and in its use under medical
 26 supervision does not meet accepted safety standards. The
 27 following substances are controlled in Schedule I:
 28 (a) Unless specifically excepted or unless listed in
 29 another schedule, any of the following substances, including

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30 their isomers, esters, ethers, salts, and salts of isomers,
 31 esters, and ethers, whenever the existence of such isomers,
 32 esters, ethers, and salts is possible within the specific
 33 chemical designation:
 34 1. Acetyl-alpha-methylfentanyl.
 35 2. Acetylmethadol.
 36 3. Allylprodine.
 37 4. Alphacetylmethadol (except levo-alphacetylmethadol, also
 38 known as levo-alpha-acetylmethadol, levomethadyl acetate, or
 39 LAAM).
 40 5. Alphamethadol.
 41 6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)
 42 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
 43 (N-propanilido) piperidine).
 44 7. Alpha-methylthiofentanyl.
 45 8. Alphameprodine.
 46 9. Benzethidine.
 47 10. Benzylfentanyl.
 48 11. Betacetylmethadol.
 49 12. Beta-hydroxyfentanyl.
 50 13. Beta-hydroxy-3-methylfentanyl.
 51 14. Betameprodine.
 52 15. Betamethadol.
 53 16. Betaprodine.
 54 17. Clonitazene.
 55 18. Dextromoramide.
 56 19. Diampromide.
 57 20. Diethylthiambutene.
 58 21. Difenoxin.

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59 22. Dimenoxadol.
 60 23. Dimepheptanol.
 61 24. Dimethylthiambutene.
 62 25. Dioxaphetyl butyrate.
 63 26. Dipipanone.
 64 27. Ethylmethylthiambutene.
 65 28. Etonitazene.
 66 29. Etoxeridine.
 67 30. Flunitrazepam.
 68 31. Furethidine.
 69 32. Hydroxypethidine.
 70 33. Ketobemidone.
 71 34. Levomoramide.
 72 35. Levophenacymorphan.
 73 36. Desmethylprodine (1-Methyl-4-Phenyl-4-
 74 Propionoxypiperidine).
 75 37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
 76 piperidyl]-N-phenylpropanamide).
 77 38. 3-Methylthiofentanyl.
 78 39. Morpheridine.
 79 40. Noracymethadol.
 80 41. Norlevorphanol.
 81 42. Normethadone.
 82 43. Norpipanone.
 83 44. Para-Fluorofentanyl.
 84 45. Phenadoxone.
 85 46. Phenampromide.
 86 47. Phenomorphan.
 87 48. Phenoperidine.

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88 49. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-
 89 Acetyloxypiperidine).
 90 50. Piritramide.
 91 51. Proheptazine.
 92 52. Properidine.
 93 53. Propiram.
 94 54. Racemoramide.
 95 55. Thenylfentanyl.
 96 56. Thiofentanyl.
 97 57. Tilidine.
 98 58. Trimeperidine.
 99 59. Acetylfentanyl.
 100 60. Butyrylfentanyl.
 101 61. Beta-Hydroxythiofentanyl.
 102 62. Fentanyl derivatives. Unless specifically excepted,
 103 listed in another schedule, or contained within a pharmaceutical
 104 product approved by the United States Food and Drug
 105 Administration, any material, compound, mixture, or preparation,
 106 including its salts, isomers, esters, or ethers, and salts of
 107 isomers, esters, or ethers, whenever the existence of such salts
 108 is possible within any of the following specific chemical
 109 designations containing a 4-anilidopiperidine structure:
 110 a. With or without substitution at the carbonyl of the
 111 aniline moiety with alkyl, alkenyl, carboalkoxy, cycloalkyl,
 112 methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl,
 113 dihydrofuranyl, benzyl moiety, or rings containing heteroatoms
 114 sulfur, oxygen, or nitrogen;
 115 b. With or without substitution at the piperidine amino
 116 moiety with a phenethyl, benzyl, alkylaryl (including

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heteroaromatics), alkyltetrazolyl ring, or an alkyl or carbomethoxy group, whether or not further substituted in the ring or group;

c. With or without substitution or addition to the piperidine ring to any extent with one or more methyl, carbomethoxy, methoxy, methoxymethyl, aryl, allyl, or ester groups;

d. With or without substitution of one or more hydrogen atoms for halogens, or methyl, alkyl, or methoxy groups, in the aromatic ring of the anilide moiety;

e. With or without substitution at the alpha or beta position of the piperidine ring with alkyl, hydroxyl, or methoxy groups;

f. With or without substitution of the benzene ring of the anilide moiety for an aromatic heterocycle; and

g. With or without substitution of the piperidine ring for a pyrrolidine ring, perhydroazepine ring, or azepine ring;

excluding, Alfentanil, Carfentanil, Fentanyl, and Sufentanil; including, but not limited to:

(I) Acetyl-alpha-methylfentanyl.

(II) Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).

(III) Alpha-methylthiofentanyl.

(IV) Benzylfentanyl.

(V) Beta-hydroxyfentanyl.

(VI) Beta-hydroxy-3-methylfentanyl.

(VII) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-

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piperidyl]-N-phenylpropanamide).

(VIII) 3-Methylthiofentanyl.

(IX) Para-Fluorofentanyl.

(X) Thenylfentanyl or Thienyl fentanyl.

(XI) Thiofentanyl.

(XII) Acetylfentanyl.

(XIII) Butyrylfentanyl.

(XIV) Beta-Hydroxythiofentanyl.

(XV) Lofentanil.

(XVI) Ocfentanil.

(XVII) Ohmfentanyl.

(XVIII) Benzodioxolefentanyl.

(XIX) Furanyl fentanyl.

(XX) Pentanoyl fentanyl.

(XXI) Cyclopentyl fentanyl.

(XXII) Isobutyryl fentanyl.

(XXIII) Remifentanil.

63. Nitazene derivatives. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, whenever the existence of such salts is possible within any of the following specific chemical designations containing a benzimidazole ring with an ethylamine substitution at the 1-position and a benzyl ring substitution at the 2-position structure:

a. With or without substitution on the benzimidazole ring with alkyl, alkoxy, carboalkoxy, amino, nitro, or aryl groups,

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or halogens;

b. With or without substitution at the ethylamine amino moiety with alkyl, dialkyl, acetyl, or benzyl groups, whether or not further substituted in the ring system;

c. With or without inclusion of the ethylamine amino moiety in a cyclic structure;

d. With or without substitution of the benzyl ring; or

e. With or without replacement of the benzyl ring with an aromatic ring, including, but not limited to:

(I) Butonitazene.

(II) Clonitazene.

(III) Etodesnitazene.

(IV) Etonitazene.

(V) Flunitazene.

(VI) Isotodesnitazene.

(VII) Isotonitazene.

(VIII) Metodesnitazene.

(IX) Metonitazene.

(X) Nitazene.

(XI) N-Desethyl Etonitazene.

(XII) N-Desethyl Isotonitazene.

(XIII) N-Piperidino Etonitazene.

(XIV) N-Pyrrolidino Etonitazene.

(XV) Protonitazene.

Section 2. This act shall take effect July 1, 2023.

HB 1135 – Nitazene Derivatives (Similar SB 736)

This bill amends s. 893.03, F.S., adding nitazene derivatives to the list of Schedule I controlled substances, which has the potential to expand the number of offenders going to prison for drug offenses.

Per DOC, in FY 18-19, there were 1,689 new commitments to prison for the Schedule I drug offense category where nitazene derivatives will be included, and in FY 19-20, there were 931 new commitments. In FY 20-21, there were 779 new commitments, and there were 1,016 new commitments in FY 21-22. This drug offense category contains various kinds of drugs, so it is not possible to see how each drug contributes to the total number of new commitments. It is also not known how the addition of nitazene derivatives will impact the prison population. Furthermore, it is possible that the new commitments in the latter half of FY 21-22 have already been impacted by the Attorney General temporarily adding nitazene derivatives to Schedule I controlled substances in April of 2022.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1086

INTRODUCER: Senator Gruters

SUBJECT: Rights of Law Enforcement Officers

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 1086 amends provisions contained in part VI of ch. 112, F.S., commonly referred to as the “Law Enforcement Officer’s Bill of Rights.” The bill provides for an additional right, and permits a law enforcement officer or a correctional officer who is under consideration for disciplinary action by his or her agency to seek redress, if the agency fails to follow the disciplinary process in the “Officer’s Bill of Rights” and related statutes.¹

The bill amends s. 112.532, F.S., to provide that if an agency undertakes disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or a correctional officer, the officer must receive notice within 180 days after the agency receives notice of the alleged misconduct when none of the specified tolling exceptions² apply. If the agency does not comply with the notice provision, and an officer is disciplined, suspended, demoted, or dismissed, the bill provides that the officer may appeal the issuance of the disciplinary action administratively or in a court of competent jurisdiction.

Additionally, the bill amends s. 112.534, F.S., to convey upon the officer a right to appeal administratively or in a court of competent jurisdiction if a violation of s. 112.534, F.S., is discovered after an interview or interrogation, or if the agency fails to abide by the Law Enforcement Officer’s Bill of Rights, and related provisions.³

Law enforcement agencies and the Department of Corrections may incur additional costs of litigation as a result of the bill’s provisions although the fiscal impact is unquantifiable.

The bill becomes effective July 1, 2023.

¹ Part VI of ch. 112, F.S.

² Section 112.532(6)(a), F.S.; *See* footnote 7 for a complete list of the exceptions.

³ Part VI of ch. 112, F.S.; *See* ss. 112.531-112.535, F.S.

II. Present Situation:

Law Enforcement Officers' Bill of Rights

Section 112.532, F.S., commonly known as the “Law Enforcement Officers’ Bill of Rights” provides specific rights when a law enforcement officer or a correctional officer is under investigation and subject to interrogation for a reason which could lead to a disciplinary action, demotion, or dismissal. These rights generally include:

- The right to be informed of the nature of the investigation and the evidence against the law enforcement officer or correctional officer before any interrogation;
- The right to counsel during any interrogation;
- The right to be notified of the reasons for any disciplinary action before it is imposed;
- The right to a transcript of any interrogation;
- The right to a complete copy of the investigatory file; and
- The right to address the findings in the investigatory report with the agency before the disciplinary action is imposed.⁴

Additionally, these rights provide the conditions under which any interrogation of the officer must be conducted, including limitations on the time, place, manner, and length of the interrogation, and restriction on the interrogation techniques.⁵

Notice of Disciplinary Action

A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.⁶

No disciplinary action, demotion, or dismissal may be taken unless the investigation is completed within 180 days of receipt of a notice of a complaint against an officer.⁷ Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct, by a person authorized by the agency to initiate an investigation, regardless of the origin of the allegation or complaint.⁸ If the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable.⁹

⁴ Section 112.532(1)(a), (1)(b), (1)(c), (1)(e), and (1)(f), F.S.

⁵ Section 112.532(1)(d), (1)(g), (1)(i), (4)(a), and (4)(b), F.S.

⁶ Section 112.532(4)(a), F.S.

⁷ Section 112.532(6), F.S.

⁸ Section 112.532(6)(a), F.S.

⁹ Note that s. 112.532(6)(a)1.-6., F.S., contains certain exceptions to the 180-day limitation on completing an investigation. The running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer. The running of the limitations period is tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct. If the investigation involves an officer who is incapacitated or otherwise unavailable, the running of the limitations period is tolled during the period of incapacitation or unavailability. In a multijurisdictional investigation, the limitations period may be

An investigation against a law enforcement officer or correctional officer may be reopened if significant new evidence has been discovered that is likely to affect the outcome of the investigation, and such evidence could not have reasonably been discovered in the normal course of the investigation or the evidence resulted from the predisciplinary response of the officer. Such an investigation must be completed within 90 days after the date it was reopened.¹⁰

Agency Non-Compliance

Section 112.534, F.S., provides a method of recourse for an officer who alleges that any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally failed to comply with the requirements of Part VI of ch. 112, F.S., related to an investigation of a complaint against that officer.¹¹

The officer must advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.¹²

If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation.¹³ Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.¹⁴

Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee that must contain sufficient information to identify the requirements of part VI of ch. 112, F.S., which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.¹⁵

Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed,

extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved. The running of the limitations period may be tolled for emergencies or natural disasters during the time period wherein the Governor has declared a state of emergency within the jurisdictional boundaries of the concerned agency. The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

¹⁰ Section 112.532(6)(b), F.S.

¹¹ Part VI of ch. 112, F.S., pertains to law enforcement and correctional officers. *See* ss. 112.531-112.535, F.S.

¹² Section 112.534(1)(a), F.S.

¹³ Section 112.534(1)(b), F.S.

¹⁴ *Id.*

¹⁵ Section 112.534(1)(c), F.S.

unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The compliance review panel shall review the circumstances and facts surrounding the alleged intentional violation.¹⁶

Section 112.534(1)(d), F.S., sets forth the composition of compliance review panels, which hold compliance review hearings when requested by an officer with a complaint.¹⁷ It is the responsibility of the compliance review panel to determine whether the investigator or agency intentionally violated the requirements provided under part VI of ch. 112, F.S. The panel may hear evidence, review relevant documents, and hear argument before making a determination. All evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer.¹⁸ The officer bears the burden of proof in the hearing. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.¹⁹

If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.²⁰

Although the aggrieved officer may seek redress through the compliance review panel process under the circumstances described above, it appears that other avenues of complaint are unavailable. For example, s. 112.534(2)(b), F.S., specifies that the provisions of ch. 120, F.S., “do not apply” to part VI of ch. 112, F.S.²¹ Chapter 120, F.S., is the Administrative Procedure Act. This statutory prohibition against an officer seeking relief in the administrative law system became effective on July 1, 2009.²²

In the same 2009 law, the following language was stricken from s. 112.534(g), F.S.: “[A] law enforcement officer or correctional officer employed by or appointed to such agency who is personally injured by such failure to comply may apply directly to the circuit court of the county wherein such agency is headquartered and permanently resides for an injunction to restrain and

¹⁶ Section 112.534(1)(d), F.S.

¹⁷ The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works.

¹⁸ Section 112.534(1)(e), F.S.

¹⁹ Section 112.534(1)(f), F.S.

²⁰ Section 112.534(1)(g), F.S. The Criminal Justice Standards and Training Commission is authorized to certify, and revoke the certification of officers, instructors, including agency in-service training instructors, and criminal justice training schools. Section 943.12(3), F.S. “Officer” means any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer. Section 943.10(14), F.S.

²¹ Chapter 120, F.S., is the Administrative Procedure Act.

²² Chapter 2009-200, L.O.F.

enjoin such violation of the provisions of this part and to compel the performance of the duties imposed by this part.”²³

III. Effect of Proposed Changes:

The bill amends provisions contained in part VI of ch. 112, F.S., commonly referred to as the “Law Enforcement Officer’s Bill of Rights.” The bill provides for an additional right, and permits a law enforcement officer or a correctional officer who is under consideration for disciplinary action by his or her agency to seek redress, if the agency fails to follow the disciplinary process in the “Officer’s Bill of Rights” and related statutes.²⁴

The bill amends s. 112.532, F.S., to provide that if an agency undertakes disciplinary action, suspension, demotion, or dismissal against a law enforcement officer or a correctional officer, the officer must receive notice within 180 days after the agency receives notice of the alleged misconduct when none of the specified tolling exceptions,²⁵ apply.

If the agency does not comply with the notice provision, and an officer is disciplined, suspended, demoted, or dismissed, the bill provides that the officer may appeal the issuance of the disciplinary action administratively or in a court of competent jurisdiction.

Additionally, the bill amends s. 112.534, F.S., to convey upon the officer a right to appeal administratively or in a court of competent jurisdiction if a violation of s. 112.534, F.S., is discovered after an interview or interrogation, or if the agency fails to abide by the Law Enforcement Officer’s Bill of Rights, and related provisions.²⁶

The bill, therefore, gives an officer options for redress if the officer believes he or she has been wronged in the disciplinary process that were not available since the law was changed in 2009.

Law enforcement agencies and the Department of Corrections may incur additional costs of litigation as a result of the bill’s provisions although the fiscal impact is unquantifiable.

The bill becomes effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²³ *Id.*

²⁴ Part VI of ch. 112, F.S.

²⁵ Section 112.532(6)(a), F.S.; *See* footnote 7 for a complete list of the exceptions.

²⁶ Part VI of ch. 112, F.S.; *See* ss. 112.531-112.535, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Law enforcement agencies and the Department of Corrections may incur additional costs of litigation although the fiscal impact is unquantifiable.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.532 and 112.534.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Gruters

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1 A bill to be entitled
 2 An act relating to the rights of law enforcement
 3 officers; amending s. 112.532, F.S.; prohibiting a law
 4 enforcement agency from issuing any disciplinary
 5 action, suspension, demotion, or dismissal against a
 6 law enforcement officer or correctional officer unless
 7 certain conditions apply; authorizing the officer to
 8 challenge such disciplinary action, suspension,
 9 demotion, or dismissal administratively or in a court
 10 of competent jurisdiction; amending s. 112.534, F.S.;
 11 providing that an officer has the right to challenge a
 12 specified violation administratively or in a court of
 13 competent jurisdiction, if certain conditions exist;
 14 providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Paragraph (a) of subsection (6) of section
 19 112.532, Florida Statutes, is amended to read:
 20 112.532 Law enforcement officers' and correctional
 21 officers' rights.—All law enforcement officers and correctional
 22 officers employed by or appointed to a law enforcement agency or
 23 a correctional agency shall have the following rights and
 24 privileges:
 25 (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—
 26 (a) 1. Except as provided in this subsection, disciplinary
 27 action, suspension, demotion, or dismissal may not be undertaken
 28 by an agency against a law enforcement officer or correctional
 29 officer for any act, omission, or other allegation or complaint

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30 of misconduct, regardless of the origin of the allegation or
 31 complaint, if the investigation of the allegation or complaint
 32 is not completed within 180 days after the date the agency
 33 receives notice of the allegation or complaint by a person
 34 authorized by the agency to initiate an investigation of the
 35 misconduct. If the agency determines that disciplinary action is
 36 appropriate, it shall complete its investigation and give notice
 37 in writing to the law enforcement officer or correctional
 38 officer of its intent to proceed with disciplinary action, along
 39 with a proposal of the specific action sought, including length
 40 of suspension, if applicable. Notice to the officer must be
 41 provided within 180 days after the date the agency received
 42 notice of the alleged misconduct, regardless of the origin of
 43 the allegation or complaint, except as follows:
 44 a.1. The running of the limitations period may be tolled
 45 for a period specified in a written waiver of the limitation by
 46 the law enforcement officer or correctional officer.
 47 b.2. The running of the limitations period is tolled during
 48 the time that any criminal investigation or prosecution is
 49 pending in connection with the act, omission, or other
 50 allegation of misconduct.
 51 c.3. If the investigation involves an officer who is
 52 incapacitated or otherwise unavailable, the running of the
 53 limitations period is tolled during the period of incapacitation
 54 or unavailability.
 55 d.4. In a multijurisdictional investigation, the
 56 limitations period may be extended for a period of time
 57 reasonably necessary to facilitate the coordination of the
 58 agencies involved.

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~~e.5-~~ The running of the limitations period may be tolled for emergencies or natural disasters during the time period wherein the Governor has declared a state of emergency within the jurisdictional boundaries of the concerned agency.

~~f.6-~~ The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

2. Disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer unless the officer receives notice of such disciplinary action, suspension, demotion, or dismissal within 180 days after the date the agency received notice of the alleged misconduct and none of the exceptions in subparagraph 1. apply. If an officer is disciplined, suspended, demoted, or dismissed without the proper notice, the officer may appeal the issuance of such disciplinary action, suspension, demotion, or dismissal administratively or in a court of competent jurisdiction.

Section 2. Subsection (1) of section 112.534, Florida Statutes, is amended to read:

112.534 Failure to comply; official misconduct.—

(1)(a) Notwithstanding s. 112.532(6), if any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the

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following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of subparagraph 4 ~~paragraph (d)~~.

~~1.(a)-~~ The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

~~2.(b)-~~ If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

~~3.(e)-~~ Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

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117 ~~4.(d)~~ Unless otherwise remedied by the agency before the
 118 hearing, a compliance review hearing must be conducted within 10
 119 working days after the request for a compliance review hearing
 120 is filed, unless, by mutual agreement of the officer and agency
 121 or for extraordinary reasons, an alternate date is chosen. The
 122 panel shall review the circumstances and facts surrounding the
 123 alleged intentional violation. The compliance review panel shall
 124 be made up of three members: one member selected by the agency
 125 head, one member selected by the officer filing the request, and
 126 a third member to be selected by the other two members. The
 127 review panel members shall be law enforcement officers or
 128 correctional officers who are active from the same law
 129 enforcement discipline as the officer requesting the hearing.
 130 Panel members may be selected from any state, county, or
 131 municipal agency within the county in which the officer works.
 132 The compliance review hearing shall be conducted in the county
 133 in which the officer works.

134 ~~5.(e)~~ It is the responsibility of the compliance review
 135 panel to determine whether or not the investigator or agency
 136 intentionally violated the requirements provided under this
 137 part. It may hear evidence, review relevant documents, and hear
 138 argument before making such a determination; however, all
 139 evidence received shall be strictly limited to the allegation
 140 under consideration and may not be related to the disciplinary
 141 charges pending against the officer. The investigative materials
 142 are considered confidential for purposes of the compliance
 143 review hearing and determination.

144 ~~6.(f)~~ The officer bears the burden of proof to establish
 145 that the violation of this part was intentional. The standard of

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146 proof for such a determination is by a preponderance of the
 147 evidence. The determination of the panel must be made at the
 148 conclusion of the hearing, in writing, and filed with the agency
 149 head and the officer.

150 ~~7.(g)~~ If the alleged violation is sustained as intentional
 151 by the compliance review panel, the agency head shall
 152 immediately remove the investigator from any further involvement
 153 with the investigation of the officer. Additionally, the agency
 154 head shall direct an investigation be initiated against the
 155 investigator determined to have intentionally violated the
 156 requirements provided under this part for purposes of agency
 157 disciplinary action. If that investigation is sustained, the
 158 sustained allegations against the investigator shall be
 159 forwarded to the Criminal Justice Standards and Training
 160 Commission for review as an act of official misconduct or misuse
 161 of position.

162 (b) If a violation of this part is discovered after the
 163 conclusion of an interview or interrogation, or if the agency
 164 fails to abide by this part, the officer has the right to appeal
 165 the alleged violation administratively or in a court of
 166 competent jurisdiction.

167 Section 3. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SPB 7014

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: Juvenile Justice

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes		Pre-meeting

I. Summary:

SPB 7014 creates s. 985.619, F.S., establishing the Florida Scholars Academy within the Department of Juvenile Justice (DJJ) developing a single-uniform education system that the DJJ will oversee and provide educational opportunities to students in the DJJ residential commitment programs.

The bill amends s. 20.316, F.S., to permit the Secretary of Juvenile Justice to oversee the establishment of the Florida Scholars Academy pursuant to s. 985.619, F.S. Additionally, the Secretary must identify the need for and recommend the funding and implementation of career and technical education programs and services.

The bill provides in its mission statement that the academy provide students with access to secondary and postsecondary educational opportunities to attain a high school diploma including career and technical education pathway options pursuant to s. 1003.4282(10), F.S.

The bill provides that:

- Each residential program site established, authorized, or designated by the DJJ shall be considered a campus of the Florida Scholars Academy.
- Students sentenced by a court to adult facilities under ch. 944, F.S., are not eligible to enroll in the Florida Scholars Academy.
- The DJJ shall enter into a contractual agreement with an education service provider to operate, provide, or supplement full-time instruction and instructional support services for students to earn a high school diploma or high school equivalency diploma, enroll in a degree program at a Florida college or university, and earn industry-recognized credentials of value.
- The superintendent of the Florida Scholars Academy shall be approved by the secretary of the DJJ and is responsible for the management and day-to-day operation of the Florida Scholars Academy.
- The Florida Scholars Academy shall be governed by a board of trustees comprised of the Secretary of the DJJ, the superintendent of the Florida Scholars Academy, and three (3) board members appointed by the Governor.

- Funding for the operational and instructional services for all students enrolled in the Florida Scholars Academy shall be provided through the General Appropriations Act.
- The Florida Scholars Academy shall receive all federal funds for which it is eligible.
- The secretary shall prepare and submit a legislative budget request on behalf of the Florida Scholars Academy as part of the DJJ's legislative budget request. The request of funds may be for operation and fixed capital outlay, in accordance with ch. 216, F.S.
- The Florida Scholars Academy shall have an annual financial audit of its accounts and records conducted by an independent auditor who is a certified public accountant licensed under ch. 473, F.S.

The bill amends s. 1000.04, F.S., providing that the Florida Scholars Academy is a component of the delivery of public education within Florida's Early Learning-20 education system.

This bill will have a positive fiscal impact on the DJJ. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2023.

II. Present Situation:

The Florida Legislature has determined that education is one of the most important factors in the rehabilitation of adjudicated delinquent youth.¹ The overall number of students served in juvenile justice programs during SY 2020-2021 was 9,461 students.² In FY 2021-22, residential commitment programs served 2,338 youth.³ Educational services for youth are provided by the local school district where the residential program is located.⁴ Residential youth have been deemed a risk to public safety and are placed in a rehabilitative program where they receive education, counseling, and workforce training until they complete their treatment plan.⁵

The Florida Department of Education works in partnership with the DJJ to provide a variety of education models throughout the continuum of services provided to juvenile justice involved youth, and each of these programs is a separate school with continuity of youth education, with a consistent theme related to educational standards, monitoring, and reporting.⁶ The Department of Education serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources.⁷ "Based on new and emerging research, a study conducted by Florida State University indicates that a youth's commitment to education and attainment of a post-secondary credential are the top two protective factors with evidence in reducing recidivism."⁸

¹ Florida Department of Juvenile Justice 2020-21 Comprehensive Accountability Report, available at <https://www.djj.state.fl.us/content/download/88718/file/%282020-21%20CAR%29%20Education.pdf> (last visited March 6, 2023).

² Florida Department of Juvenile Justice 2021-22 Annual Report, *Developing Effective Educational Services in the Department of Juvenile Justice Programs*, (on file with the Senate Committee on Criminal Justice).

³ *Id.*

⁴ Section 1003.52(3), F.S.

⁵ Presentation by Dr. Eric S. Hall, DJJ Secretary, before the Criminal Justice Committee on January 23, 2023, available at https://www.flsenate.gov/Committees/Show/CJ/MeetingPacket/5600/10032_MeetingPacket_5600_2.pdf.

⁶ *Supra* Note 2.

⁷ *Supra* Note 1.

⁸ Florida Department of Juvenile Justice, 2023 *Agency Legislative Bill Analysis* (February 9, 2023), at 2 (on file with the Senate Committee on Criminal Justice).

Requirements for juvenile justice education are specified in s. 1003.52, F.S. Section 1003.52, F.S., designates the Florida Department of Education as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Additionally, s. 1003.52, F.S., stipulates that the “district school board of the county in which the juvenile justice prevention, day treatment, residential, or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.”⁹

Section 1003.52(5), F.S., states:

Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide Career and Professional Education (CAPE) courses that lead to preapprentice certifications and industry certifications.¹⁰ Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications.¹¹

Students come into the DJJ system at varying points in their educational career and the services they receive varies widely throughout the state due to the current decentralized framework.¹² Students who do not attend a local public school due to their placement in a DJJ detention, prevention, residential, or day treatment program are provided high-quality and effective educational programs by the local school district in which the DJJ facility is located or by an education provider through a contract with the local school district.¹³

Florida law requires district school boards to provide basic, career education, and exceptional student programs to delinquent youth as appropriate.¹⁴ These educational programs must include appropriate curricula and related services that support treatment goals, aid reentry into the community, and may lead to completing a high school diploma or its equivalent. Juvenile justice students must also have access to the appropriate courses and instruction to prepare them for the General Educational Development (GED) test.¹⁵

Florida statutes require juvenile justice programs to provide students with information and activities that can lead to meaningful employment after release.¹⁶ The types of career programming are in s. 985.622, F.S., and are as follows:

⁹ Section 1003.52, F.S.

¹⁰ Section 1003.52(5), F.S.

¹¹ *Supra* Note 8.

¹² *Id.*

¹³ Rule 6A-05281(2), F.A.C.

¹⁴ Section 1003.52(5), F.S., provides that if the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and career employability skills.

¹⁵ The American Council on Education’s General Educational Development Testing Service develops the GED test, delivery system, and standards.

¹⁶ Section 985.622, F.S.

- Type 1: Programs that teach personal accountability skills and behaviors that are appropriate for students in all age groups and ability levels and that lead to work habits that help maintain employment and living standards.¹⁷ A Type 1 program may offer competencies in communication skills, interpersonal skills, decision-making skills, and lifelong learning skills.¹⁸
- Type 2: Programs that include Type 1 program content and an orientation to the broad scope of career choices, based upon personal abilities, aptitudes, and interests. Exploring and gaining knowledge of occupation options and the level of effort required to achieve them is an essential prerequisite to skill training.¹⁹ Type 2 curriculum may include conflict resolution skills, identifying skills and interests, interests and aptitude surveys, personal accomplishments and qualifications, preparation and job seeking and coping with stress.²⁰
- Type 3: Programs that include Type 1 program content and the competencies or the prerequisites needed for entry into a specific occupation.²¹ A Type 3 program may include industry-recognized certification, statewide or local articulation agreements, or both, in place for continuity of educational initiatives. Additionally, Type 3 programs may offer certifications in numerous areas, including culinary arts, carpentry, welding, building technology, automotive technology, building ground maintenance, and information technology.²²

Reports show that about half of high school youth are substantially academically behind when they enter the juvenile justice system, and these students do not earn credits at a sufficient rate to reduce their academic deficit increasing their risk of dropping out of school when they complete the delinquency program.²³ The median credits earned by high school students per semester varied substantially by the type of juvenile justice program they attended.²⁴

Educational risk factors are associated with juvenile and adult offending, justice system involvement, and recidivism. These risk factors include low academic achievement, academic failure, negative attitudes toward school, low bonding to school, low school attachment and commitment to school, frequent school transitions, low academic aspirations, suspensions and expulsions, truancy and absenteeism, inadequate school climate, and school dropout.²⁵ Older students with significant credit deficiencies are not likely to complete high school, therefore for many of these students it is suggested that GEDs and job training are critical to preparing them for self-sufficiency.²⁶

¹⁷ Section 985.622(3)(a), F.S.

¹⁸ Department of Juvenile Justice, Education Programs Overview, available at <https://www.djj.state.fl.us/services/office-of-education/education-programs> (last visited March 6, 2023).

¹⁹ Section 985.622(3)(b), F.S.

²⁰ *Supra*, Note 18

²¹ Section 985.622(3)(c), F.S.

²² *Supra*, Note 18

²³ Policy Review of Educational Programs of the Department of Juvenile Justice, OPPAGA Report No.10-55, October 2010 available at <https://oppaga.fl.gov/Documents/Reports/10-07.pdf> (last visited February 6, 2023).

²⁴ *Id.*

²⁵ Office of Juvenile Justice and Delinquency Prevention, Literature Review, *Education for Youth Under Formal Supervision of Juvenile Justice System*, January 2019, available at <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education-for-youth-under-formal-supervision-of-the-juvenile-justice-system.pdf> (last visited March 6, 2023).

²⁶ *Id.*

Academic measures are indicated to predict recidivism among system-involved youth. GED attainment rates of juvenile justice students who were most at risk of dropping out varied widely among programs. The most significant difference between programs with high GED attainment rates and other programs appears to be the criteria they follow in deciding which students take the examination.²⁷

In research on juvenile justice residential facilities in Florida, it was found that only 9 percent of returning youth earned a diploma during their commitment.²⁸ Similarly, in another study it was found that only 7 percent of the more than 10,000 delinquent youth returning from residential facilities in Florida had earned a high school diploma or GED before their reentry into the community.²⁹

In SY 2020-21, the DJJ had 1,337 exiting twelfth graders who received a standard high school diploma or high school equivalency diploma accounting for 58 percent of graduates.³⁰ According to reports, 38 percent of students reoffended within one year after the completion of a day treatment or residential commitment program.³¹

A recent study conducted by Florida State University College of Criminology and Criminal Justice predicting reoffending and informing treatment for Florida residential youth found that high quality programming in areas of education, employment, and vocational services may reduce reoffending because it may increase youth social bonds to conventional social institutions and goals.³²

Barriers to Performance Outcomes for Students in the DJJ Programs

Youth reentering the education system after secure confinement in a residential facility face many barriers that put them at risk of dropping out of school.³³ According to the U.S. Department of Education, while most youth returning to their communities from a residential facility wish to reenroll in school, only about one third actually do so.³⁴ Other studies report that two thirds of youth do not return to school after they are released from confinement.³⁵ Some

²⁷ OJJDP Literature Review, *Education for Youth Under Formal Supervision of the Juvenile Justice System*, January 2019, available at <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education-for-youth-under-formal-supervision-of-the-juvenile-justice-system.pdf> (last visited March 6, 2023).

²⁸ Cavendish, W. 2014. *Academic attainment during commitment and postrelease education-related outcomes of juvenile justice-involved youth with and without disabilities*. *Journal of Emotional and Behavioral Disorders* 22(1): 41-52.

²⁹ Blomberg, T. G., Bales, W.D., and Piquero, A.R. 2012. *Is educational achievement a turning point for incarcerated delinquents across race and sex?* *Journal of Youth and Adolescence* 41(2):202–216.

³⁰ *Supra*, Note 3.

³¹ *Id.*

³² Florida State University College of Criminology & Criminal Justice, *Predicting Reoffending and Informing Treatment for Florida Residential Youth*, Final Project Report, June 30, 2020, at 22, (on file with the Senate Committee on Criminal Justice).

³³ Wallace, P. 2012. *Juvenile justice and education: Identifying leverage points and recommending reform for reentry in Washington, DC*. *Georgetown Journal on Poverty Law & Policy* 19:159–179.

³⁴ U.S. Department of Education. 2016b. *You Got This: Educational Pathways for Youth Transitioning from Juvenile Justice Facilities*. Washington, DC: U.S. Department of Education. Retrieved January 15, 2019, available at <https://www.pathwayswv.org/docs/pathways-transitioning-justice-facilities.pdf> (last visited March 6, 2023).

³⁵ Sweeten, G. 2006. Who will graduate? Disruption of high school education by arrest and court involvement. *Justice Quarterly* 23(4):462–480.

found that only 44 percent of youth released from juvenile residential facilities in Florida returned to school, and only 8 percent leaving the facility without a high school diploma earned a diploma within 3 years after release.³⁶ Additionally, more than a quarter of youth housed in juvenile justice facilities drop out of school within 6 months, and only 15 percent of students in ninth grade released from confinement graduate from high school in 4 years.³⁷

Reports have identified the following as barriers to educational performance outcomes for students enrolled in the DJJ residential programs:

- Collaboration and coordination between sending school district and program school district
- Comprehensive district support in the form of school counselors, professional development opportunities and accountability.
- Provisions for educational related services.³⁸

III. Effect of Proposed Changes:

The bill amends s. 20.316, F.S., modifying the role of the Secretary of the DJJ to permit the secretary to oversee the establishment of the Florida Scholars Academy. Additionally, the Secretary must identify the need for and recommend the funding and implementation of career and technical education programs and services.

The bill creates s. 985.619, F.S., establishing the Florida Scholars Academy, to deliver educational opportunities to students served in residential commitment programs. The bill establishes that each residential program site established, authorized, or designated shall be considered a campus of the Florida Scholars Academy.

The bill specifies that students sentenced by a court to adult facilities under ch. 944, F.S., are not eligible to enroll in the Florida Scholars Academy.

Collaboration and Coordination of Services

The bill creates provisions that permit the DJJ to enter into contractual agreements with education service providers to operate, provide, or supplement full time instruction and instructional support services for students to earn a high school diploma or high school equivalency diploma, enroll in a degree program at a state college or university, and earn industry-recognized credentials of value from the Master Credentials list. The contracted provider will also be responsible for the administration of all educational services to students enrolled in the academy.

The bill provides that the superintendent of the Florida Scholars Academy is responsible for managing the day-to-day operations of the academy and must be approved by the secretary of the DJJ.

³⁶ *Supra* Note 18.

³⁷ *Id.*

³⁸ Florida Department of Education – Juvenile Justice Youth report available at <https://www.fldoe.org/core/fileparse.php/7506/urlt/CompSERARSJJP.pdf> (last visited March 6, 2023).

Governing Body

The bill provides that the Florida Scholars Academy shall be governed by a board of trustees, comprised of five members, which must include the Secretary of the DJJ, the superintendent of the Florida Scholars Academy, and three (3) board members appointed by the Governor. The secretary or his or her designee will be the initial chair of the board and must serve a term of 4 years. The board of trustees have the following duties:

- Meet 4 times each year, upon the call of the chair, or at the request of a majority of the membership.
- Be responsible for the Florida Scholars Academy's development of an education delivery system that is sustainable, high-quality, and educationally sound.
- Identify appropriate performance measures and standards based on student achievement that reflects the school's mission and priorities.
- Implement an accountability system approved by the Florida Board of Education that includes an assessment of the boards' effectiveness and efficiency in providing quality services by the 2024-2025 school year.
- Administer and maintain the educational programs for the academy in accordance with laws and rules established by the DJJ in consultation with the Florida Department of Education.
- Maintain financial records and accounts.
- Provide for the content and custody of student records pursuant to s. 1002.22, F.S.

The board is a body corporate with all the powers of a body corporate and may exercise authority as needed for the proper operation and improvement of the Florida Scholars Academy. The board is authorized to adopt rules, policies, and procedures, consistent with the law and State Board of Education rules.

Staffing

The bill provides that the board of trustees of the Florida Scholars Academy shall with the approval of the secretary or his or her designee, determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel, in alignment with the Florida Scholars Academy's provider contracts.

The employment of all Florida Scholars Academy administrative and instructional personnel are subject to rejection for cause by the secretary of the DJJ and are subject to policies established by the board of trustees.

Funding

The bill provides that funding for the operational and instructional services for all students enrolled in the Florida Scholars Academy shall be provided through the General Appropriations Act. The Florida Scholars Academy shall receive all federal funds for which it is eligible.

The secretary shall prepare and submit a legislative budget request on behalf of the Florida Scholars Academy as part of the DJJ's legislative budget request. The request of funds may be for operation and fixed capital outlay, in accordance with ch. 216, F.S.

The fiscal year for the Florida Scholars Academy shall be the state fiscal year. Notwithstanding the provisions of s. 216.301, F.S., and pursuant to s. 216.351, F.S., all unexpended funds appropriated for the Florida Scholars Academy shall be carried forward and included as the balance forward for that fund in the approved operating budget for the following year.

The Florida Scholars Academy must maintain a minimum general fund ending fund balance of 3 percent that is sufficient to address normal contingencies.

The bill provides circumstances under which the secretary must provide notice to the Commissioner of Education. Additionally, the bill provides that the commissioner must appoint a financial emergency board under certain circumstances.

State Credit Limitation, Audit, and Rulemaking

The bill provides that the credit of the state may not be pledged on behalf of the Florida Scholars Academy.

The Florida Scholars Academy must have an annual financial audit of its accounts and records conducted by an independent auditor, who must conduct the audit in accordance with rules.

The independent auditor shall submit the audit report to the board of trustees and the Auditor General no later than 9 months after the end of the preceding fiscal year.

The bill permits the DJJ to establish necessary rules.

The bill amends s. 1000.04, F.S., to state that the Florida Scholars Academy is a component of the public education system within Florida's Early Learning-20 education system.³⁹

The bill makes conforming changes to s. 1013.3, F.S., related to cooperative agreements that would no longer be required.⁴⁰

The bill provides for a recurring appropriation of \$12 million for year one startup costs.⁴¹

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³⁹ Section 1000.04, F.S.

⁴⁰ Section 1013.3, F.S.

⁴¹ *Supra* Note 8.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DJJ preliminary estimate provides that the bill has a positive determinate fiscal impact. The bill provides that school districts are no longer responsible for providing educational services within these residential programs and therefore would not pull down Florida Education Finance Program (FEFP) funding.

- School districts would no longer receive funding through FEFP for these students. Rather funding for the Florida Scholars Academy will be replaced with General Revenue funds that better meet the individual education needs of students. Funding would be phased in over two years by the General Appropriations Act –non-FEFP General Revenue funding.
- Per DJJ Year One: \$12 million recurring
 - First year funding would be needed to set up the administrative side of the Florida Scholars Academy hire and train staff, and develop policies.
- Year Two: \$24.1 million recurring
 - Second year funding include \$12,100,000 in additional recurring funding to cover the costs of operating and providing education to the students. Once fully implemented, the DJJ anticipates the total 12 month operating costs of the Florida Scholars Academy to total \$24.1M.⁴²

VI. Technical Deficiencies:

None.

⁴² Florida Department of Juvenile Justice, 2023 *Agency Legislative Bill Analysis* (February 9, 2023), at 2 (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.316, 1000.04, and 1013.53.

This bill creates section 985.619 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Criminal Justice

591-01804A-23

20237014pb

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 20.316, F.S.; requiring that the secretary of the
 4 Department of Juvenile Justice oversee the
 5 establishment of the Florida Scholars Academy;
 6 revising a duty of the secretary; creating s. 985.619,
 7 F.S.; requiring that the department establish the
 8 academy; specifying the academy's mission; requiring
 9 the academy to provide students with greater access to
 10 secondary and postsecondary educational opportunities;
 11 providing requirements for the contractual agreement
 12 entered into by the department with an education
 13 service provider; requiring that the superintendent of
 14 the academy be approved by the secretary; requiring
 15 that the academy be governed by a board of trustees;
 16 providing for board membership; specifying the powers
 17 and duties of the board; specifying funding sources
 18 for the academy; providing requirements related to
 19 funding; prohibiting the pledging of the state's
 20 credit on behalf of the academy; requiring annual
 21 financial audits of the academy; providing audit
 22 requirements; providing requirements for an audit
 23 report; authorizing the department to adopt rules;
 24 amending s. 1000.04, F.S.; specifying that the academy
 25 is a component of the delivery of public education
 26 within Florida's Early Learning-20 education system;
 27 amending s. 1013.53, F.S.; requiring the department to
 28 provide early notice to school districts regarding the
 29 siting of new juvenile justice detention facilities;

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30 requiring that school districts be consulted regarding
 31 the types of students expected to be assigned to
 32 detention facilities, rather than commitment
 33 facilities; deleting requirements of the department
 34 related to commitment facilities; providing an
 35 appropriation; providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Paragraph (c) of subsection (1) of section
 40 20.316, Florida Statutes, is amended to read:
 41 20.316 Department of Juvenile Justice.—There is created a
 42 Department of Juvenile Justice.
 43 (1) SECRETARY OF JUVENILE JUSTICE.—
 44 (c) The Secretary of Juvenile Justice shall:
 45 1. Ensure that juvenile justice continuum programs and
 46 services are implemented according to legislative intent; state
 47 and federal laws, rules, and regulations; statewide program
 48 standards; and performance objectives by reviewing and
 49 monitoring regional and circuit program operations and providing
 50 technical assistance to those programs.
 51 2. Identify the need for and recommend the funding and
 52 implementation of an appropriate mix of programs and services
 53 within the juvenile justice continuum, including prevention,
 54 diversion, nonresidential and residential commitment programs,
 55 training schools, and conditional release programs and services,
 56 with an overlay of educational, career and technical education
 57 ~~vocational~~, alcohol, drug abuse, and mental health services
 58 where appropriate.

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59 3. Oversee the establishment of the Florida Scholars
 60 Academy created under s. 985.619.

61 ~~4.3-~~ Provide for program research, development, and
 62 planning.

63 ~~5.4-~~ Develop staffing and workload standards and coordinate
 64 staff development and training.

65 ~~6.5-~~ Develop budget and resource allocation methodologies
 66 and strategies.

67 ~~7.6-~~ Establish program policies and rules and ensure that
 68 those policies and rules encourage cooperation, collaboration,
 69 and information sharing with community partners in the juvenile
 70 justice system to the extent authorized by law.

71 ~~8.7-~~ Develop funding sources external to state government.

72 ~~9.8-~~ Obtain, approve, monitor, and coordinate research and
 73 program development grants.

74 ~~10.9-~~ Enter into contracts.

75 ~~11.10-~~ Monitor all state-funded programs, grants,
 76 appropriations, or activities that are designed to prevent
 77 juvenile crime, delinquency, gang membership, or status offense
 78 behaviors and all state-funded programs, grants, appropriations,
 79 or activities that are designed to prevent a child from becoming
 80 a "child in need of services," as defined in chapter 984, in
 81 order to effect the goals and policies of the State
 82 Comprehensive Plan regarding children and regarding governmental
 83 efficiency, and in order to determine:

84 a. The number of youth served by such state-funded
 85 programs, grants, appropriations, or activities;

86 b. The number of youth who complete such state-funded
 87 programs, grants, appropriations, or activities;

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88 c. The number and percentage of youth who are referred for
 89 delinquency while participating in such state-funded programs,
 90 grants, appropriations, or activities;

91 d. The number and percentage of youth who are referred for
 92 delinquency within 6 months after completing such state-funded
 93 programs, grants, appropriations, or activities.

94 Section 2. Section 985.619, Florida Statutes, is created to
 95 read:

96 985.619 Florida Scholars Academy.-

97 (1) ESTABLISHMENT.-

98 (a) The department shall establish the Florida Scholars
 99 Academy to deliver educational opportunities to students served
 100 in residential commitment programs under this chapter.

101 (b) Each residential program site established, authorized,
 102 or designated by the department is considered a campus of the
 103 Florida Scholars Academy.

104 (c) Students sentenced by a court to adult facilities under
 105 chapter 944 are not eligible to enroll in the Florida Scholars
 106 Academy.

107 (2) MISSION.-The mission of the Florida Scholars Academy is
 108 to provide a free and appropriate high-quality education to
 109 eligible students within the juvenile justice system. The
 110 academy shall provide students with greater access to secondary
 111 and postsecondary educational opportunities, including, but not
 112 limited to, pathways to attain a high school diploma, the career
 113 and technical education graduation pathway option provided under
 114 s. 1003.4282(10), a high school equivalency diploma, enrolling
 115 in a degree program at a state college or university, and
 116 earning an industry-recognized credential of value from the

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Master Credentials List as described in s. 445.004(4)(h) to prepare students to be gainfully employed and productive members of society upon their exit from the state's juvenile justice system.

(3) REQUIRED CONTRACTING.—

(a) The department shall enter into a contractual agreement with an education service provider with a proven track record of success to operate, provide, or supplement full-time instruction and instructional support services for students to earn a high school diploma or high school equivalency diploma, enroll in a degree program at a state college or university, and earn industry-recognized credentials of value from the Master Credentials List. The contracted education service provider is responsible for the administration of all educational services to students enrolled in the academy.

(b) The superintendent of the Florida Scholars Academy must be approved by the secretary of the department. The superintendent is responsible for the management and day-to-day operations of the Florida Scholars Academy.

(4) GOVERNING BODY; POWERS AND DUTIES.—

(a)1. The Florida Scholars Academy shall be governed by a board of trustees, composed of the following five members:

a. The secretary of the department, or his or her designee.

b. The superintendent of the Florida Scholars Academy.

c. Three members appointed by the Governor.

2. The secretary of the department or his or her designee shall be the initial chair of the board and shall serve a term of 4 years. Members of the board of trustees shall serve without compensation but may be reimbursed for per diem and travel

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expenses pursuant to s. 112.061.

(b) The board of trustees shall have the following powers and duties:

1. Meet at least 4 times each year, upon the call of the chair, or at the request of a majority of the membership.

2. Be responsible for the Florida Scholars Academy's development of an education delivery system that is cost-effective, high-quality, educationally sound, and capable of sustaining an effective delivery system.

3.a. Identify appropriate performance measures and standards based on student achievement which reflect the school's statutory mission and priorities, and implement an accountability system approved by the State Board of Education for the school by the 2024-2025 school year which includes an assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access to career opportunities.

b. For the 2024-2025 school year, the results of the accountability system must serve as an informative baseline for the academy as it works to improve performance in future years.

4. Administer and maintain the educational programs of the Florida Scholars Academy in accordance with law and department rules, in consultation with the State Board of Education.

5. With the approval of the secretary of the department or his or her designee, determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel, in alignment with the Florida Scholars Academy's provider contracts.

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175 6. The employment of all Florida Scholars Academy
 176 administrative and instructional personnel are subject to
 177 rejection for cause by the secretary of the department or his or
 178 her designee and are subject to policies established by the
 179 board of trustees.

180 7. Provide for the content and custody of student records
 181 in compliance with s. 1002.22.

182 8. Maintain the financial records and accounts of the
 183 Florida Scholars Academy in compliance with rules adopted by the
 184 State Board of Education for the uniform system of financial
 185 records and accounts for the schools of this state.

186 9. Is a body corporate with all the powers of a body
 187 corporate and may exercise such authority as is needed for the
 188 proper operation and improvement of the Florida Scholars
 189 Academy. The board of trustees is specifically authorized to
 190 adopt rules, policies, and procedures, consistent with law and
 191 State Board of Education rules related to governance, personnel,
 192 budget and finance, administration, programs, curriculum and
 193 instruction, travel and purchasing, technology, students,
 194 contracts and grants, and property as necessary for optimal,
 195 efficient operation of the Florida Scholars Academy.

196 (5) FUNDING.—

197 (a)1. Funding for the operational and instructional
 198 services for students enrolled in the Florida Scholars Academy
 199 must be provided by the General Appropriations Act.

200 2. The Florida Scholars Academy shall receive all federal
 201 funds for which it is eligible.

202 (b) The secretary of the department shall prepare and
 203 submit a legislative budget request on behalf of the Florida

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204 Scholars Academy as part of the department's legislative budget
 205 request. The request of funds may be for operation and fixed
 206 capital outlay, in accordance with chapter 216.

207 (c) The fiscal year for the Florida Scholars Academy is the
 208 state fiscal year as defined in s. 216.011(1)(o).

209 (d) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 210 all unexpended funds appropriated for the Florida Scholars
 211 Academy must be carried forward and included as the balance
 212 forward for that fund in the approved operating budget for the
 213 following year.

214 (e)1. The Florida Scholars Academy shall maintain at least
 215 a 3 percent general fund ending fund balance, which amount must
 216 be sufficient to address normal contingencies.

217 2. If at any time the portion of the general fund's ending
 218 fund balance not classified as restricted, committed, or
 219 nonspendable in the Florida Scholars Academy's approved
 220 operating budget is projected to fall below 2 percent of
 221 projected general fund revenues during the current fiscal year,
 222 the secretary of the department or his or her designee shall
 223 provide written notification to the Commissioner of Education.
 224 If the commissioner determines that the Florida Scholars Academy
 225 does not have a plan that is reasonably anticipated to avoid a
 226 financial emergency as determined pursuant to s. 218.503, the
 227 commissioner must, within 14 days after receiving such
 228 notification, appoint a financial emergency board that shall
 229 operate under the requirements, powers, and duties specified in
 230 s. 218.503(3)(g).

231 (6) STATE CREDIT LIMITATION.—The credit of the state may
 232 not be pledged under any circumstance on behalf of the Florida

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Scholars Academy.

(7) ANNUAL AUDIT.—

(a) The Florida Scholars Academy must have an annual financial audit of its accounts and records conducted by an independent auditor who is a certified public accountant licensed under chapter 473. The independent auditor shall conduct the audit in accordance with rules adopted by the Auditor General pursuant to s. 11.45 and, upon completion of the audit, shall prepare an audit report in accordance with such rules. The audit report must include a written statement by the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations included in the audit report.

(b) The independent auditor shall submit the audit report to the board of trustees and the Auditor General not later than 9 months after the end of the preceding fiscal year.

(8) RULEMAKING.—The department may establish rules to implement this section.

Section 3. Subsection (6) is added to section 1000.04, Florida Statutes, to read:

1000.04 Components for the delivery of public education within the Florida Early Learning-20 education system.—Florida's Early Learning-20 education system provides for the delivery of early learning and public education through publicly supported and controlled K-12 schools, Florida College System institutions, state universities and other postsecondary educational institutions, other educational institutions, and other educational services as provided or authorized by the Constitution and laws of the state.

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(6) FLORIDA SCHOLARS ACADEMY.—The Florida Scholars Academy is a component of the delivery of public education within the Florida Early Learning-20 education system.

Section 4. Section 1013.53, Florida Statutes, is amended to read:

1013.53 Cooperative development of educational facilities in juvenile justice programs.—

(1) The Department of Juvenile Justice shall provide early notice to school districts regarding the siting of new juvenile justice detention facilities. School districts shall include the projected number of students in the districts' annual estimates. School districts must be consulted regarding the types of students expected to be assigned to detention ~~commitment~~ facilities for education planning and budgeting purposes.

(2) The Department of Juvenile Justice shall notify, in writing, the Department of Education when a request for proposals is issued for the construction or operation of a ~~commitment~~ or detention facility anywhere in this ~~the~~ state. The Department of Juvenile Justice shall notify, in writing, the appropriate school district when a request for proposals is issued for the construction or operation of a ~~commitment~~ or detention facility when a county or site is specifically identified.

(3) The Department of Juvenile Justice shall also notify the district school superintendent within 30 days after:

(a) The award of a contract for the construction or operation of a ~~commitment~~ or detention facility within that school district.

(b) Obtaining a permit to begin construction of a new

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detention ~~or commitment~~ facility within that school district.

Section 5. For the 2023-2024 fiscal year, the recurring sum
of \$12 million is appropriated from the General Revenue Fund to
the Department of Juvenile Justice for the purpose of carrying
out the provisions of this act.

Section 6. This act shall take effect July 1, 2023.

**Developing Effective Educational
Services in the Department of
Juvenile Justice Programs**

Annual Report 2021-2022



**Florida Department of Education
2023**

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Purpose

The purpose of this report is to provide the Florida Legislature with the information required by section 1003.52(17), Florida Statutes (F.S.), Educational services in Department of Juvenile Justice programs.

Section 1003.52, F.S., requires the Florida Department of Education (FDOE) and the Florida Department of Juvenile Justice (DJJ) to document the number and percentage of students who: return to an alternative school, middle school or high school upon release, and the attendance rate of such students before and after participation in juvenile justice educational programs; receive a standard high school diploma or a high school equivalency diploma; receive industry certification; enroll in a postsecondary educational institution; complete a juvenile justice educational program without reoffending; reoffend within one year after completion of a day treatment or residential commitment program; remain employed one year after completion of a day treatment or residential commitment program; and demonstrate learning gains pursuant to s. 1003.52(3)(d), F.S.

The report must also contain the amount of funding district school boards provide to juvenile justice educational programs and the amount retained for administration, including documenting the purposes for such expenses; the status of the development of cooperative agreements; recommendations for system improvement; and information on the identification of, and services provided to exceptional students in juvenile justice facilities, to determine whether these students are properly reported for funding and are appropriately served.

This report is divided into the following two sections: outcomes and program results and funding for DJJ programs. The first section includes percentages and numbers of students served in DJJ programs and post-release activities. This section addresses the eight juvenile justice topics required by s. 1003.52, F.S., which are focused on program outcomes and results. The second section includes information on funding and expenditures, cooperative agreements and educational service contracts, services to exceptional education students, and recommendations for system improvement.

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Juvenile Justice Programs' Outcomes and Results

Florida law authorizes educational services in DJJ programs (s. 1003.52, F.S.) to ensure all eligible students receive a high-quality education designed to meet their unique needs. Within this section, several measures are required to be reported to the Governor, President of the Senate and Speaker of the House of Representatives by February 1 of each year.

Data for this report are derived from the following sources:

1. FDOE PK-20 Education Data
 - a. Three years of data were used [school years (SYs) 2019-20, 2020-21 and 2021-22], and
 - b. The data represent Survey 5 records reported to the FDOE through October 31, 2022;
2. Florida Education and Training Placement Information Program (FETPIP); and
3. Florida DJJ Information System
 - a. The data represent placement and offense records reported to FDOE through September 1, 2022.

Demographics and Exceptionalities—Students served in DJJ programs during SY 2020-21:

1. Overall number of students served in juvenile justice programs—9,461;
2. Overall number and percentage of students in juvenile justice programs receiving Exceptional Student Education (ESE) services—2,761 or 29.2 percent; and
3. Number and percentage of students classified as having a primary:
 - a. Specific learning disability (SLD)—1,066 or 11.3 percent,
 - b. Emotional behavioral disability (EBD)—786 or 8.3 percent,
 - c. Intellectual disability (ID)—142 or 1.5 percent,
 - d. Other health impairment (OHI)—548 or 5.8 percent, and
 - e. Other exceptionality (OE)—219 or 2.3 percent.

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The following section contains each of the required measures listed in s. 1003.52(17), F.S.

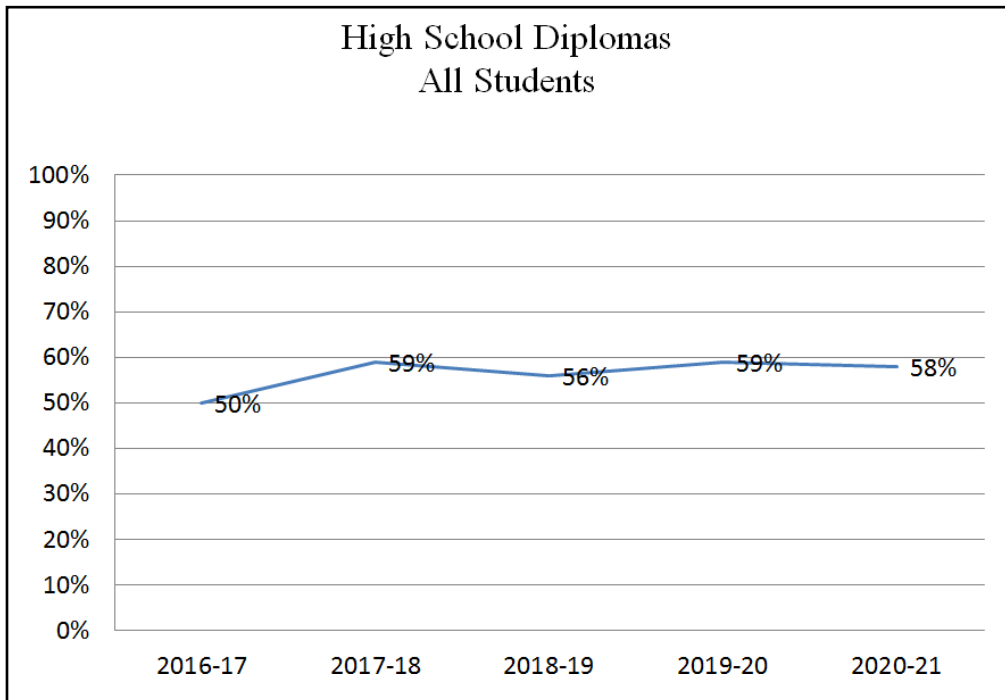
High School Diplomas

The following table provides the number and percentage of exiting twelfth graders who received a standard high school diploma or a high school equivalency diploma.

	Number of SY 2020-21 DJJ Twelfth Graders or SY 2020-21 Graduates	Number of Twelfth Graders or Graduates Enrolled in a DJJ School in SY 2020-21 Who Graduated in SY 2020- 21 or SY 2021-22	Percentage of Graduates
Students With Disabilities	246	141	57%
All Students	1,337	772	58%

Note: The denominator, in addition to exiting twelfth graders, includes students who graduated or received a high school equivalency in SY 2020-21 regardless of grade level.

The chart below represents six-year trend data. The years in the chart represent the year the student was enrolled in a DJJ facility rather than the year the outcome was achieved.



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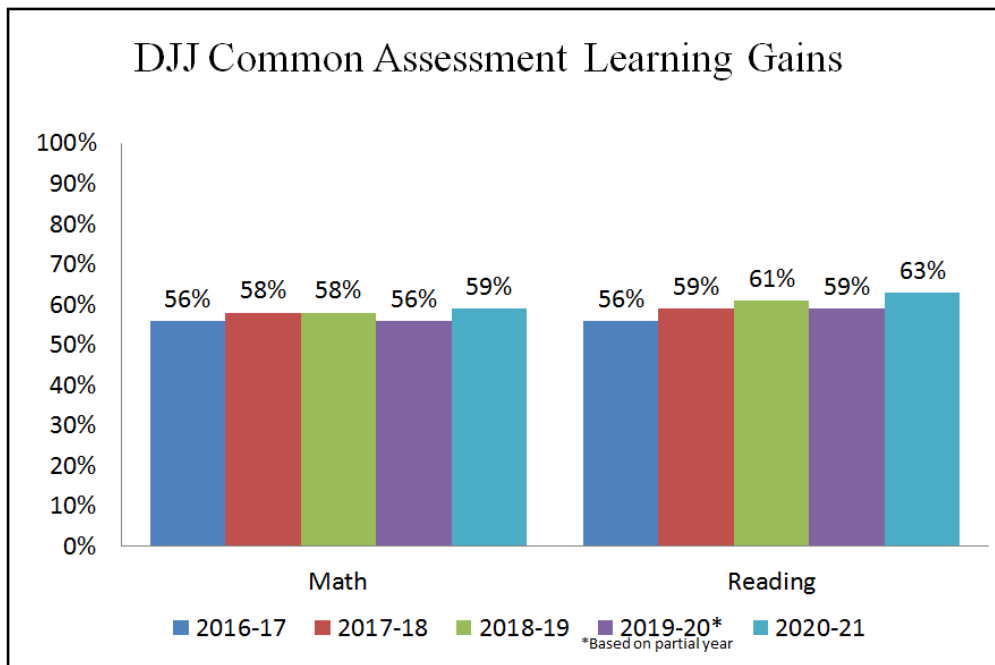
Learning Gains

The following table provides the number and percentage of students who demonstrated learning gains.

Common Assessment Subject Area	Number of Students in DJJ Schools During SY 2020-21 Reported with Both Pre- and Post-Assessment Data	Number of Students in DJJ Schools During SY 2020-21 Reported with Both Pre- and Post-Assessment Data Who Achieved Gains	Percentage Who Achieved Gains
Math	1,436	846	59%
Reading	1,404	880	63%

Note: Starting in April 2016, DJJ programs began transferring over to a new common assessment. These counts are based on the new common assessment. A student is considered to have made a gain if the student's score increased on the common assessment between the pre- and post-test or if a student scored 100% on both the pre- and post-tests.

The chart below represents five-year trend data. The years in the chart represent the year the student was enrolled in a DJJ facility rather than the year the outcome was achieved.



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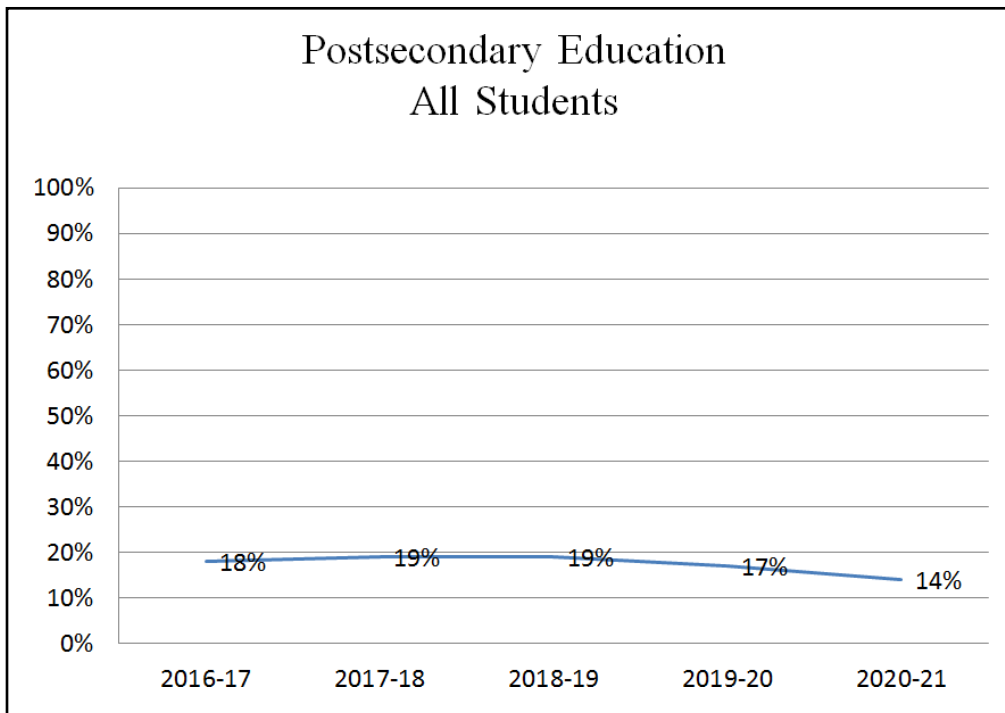
Postsecondary Education

The following table provides the number and percentage of students who graduated in and enrolled in a postsecondary educational institution.

	Number of Students Who Received a Diploma or Graduated During SY 2020-21	Number of Students Who Enrolled in a Postsecondary Institution in 2020-21 or 2021-22	Percentage Continuing to Postsecondary
Students with Disabilities	117	11	9%
All Students	692	94	14%

Note: The number of students who received a diploma or graduated in SY 2020-21 is based on the number of graduates reported in measure 1, but does not include the youth who graduated in SY 2021-22. Only the SY 2020-21 graduates were followed through to SY 2021-22 for postsecondary placement. Postsecondary education includes enrollment in the Florida District Postsecondary Institutions, The Florida College System and the State University System of Florida.

The chart below represents six-year trend data. The years in the chart represent the year the student was enrolled in a DJJ facility rather than the year the outcome was achieved.



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Employment

The following table provides the number and percentage of students with disabilities who were employed within one year after completion of a day treatment or residential commitment program.

DJJ Program Area	Number of Students with Disabilities Released from a DJJ Program During SY 2020-21 Who Completed the Program	Number of Students with Disabilities Released from a DJJ Program During SY 2020-21 Who Completed the Program and Were Employed in Either SY 2020-21 or SY 2021-22	Percentage of Completers with Disabilities Who Were Employed One Year After Completion
Residential	513	197	38%
Day Treatment	103	34	33%

Note: Program completion information was derived from Survey 5 Prior School Attendance data. Students were considered completers if they did not re-enroll in the same DJJ program within 30 days or return to the same program after summer break.

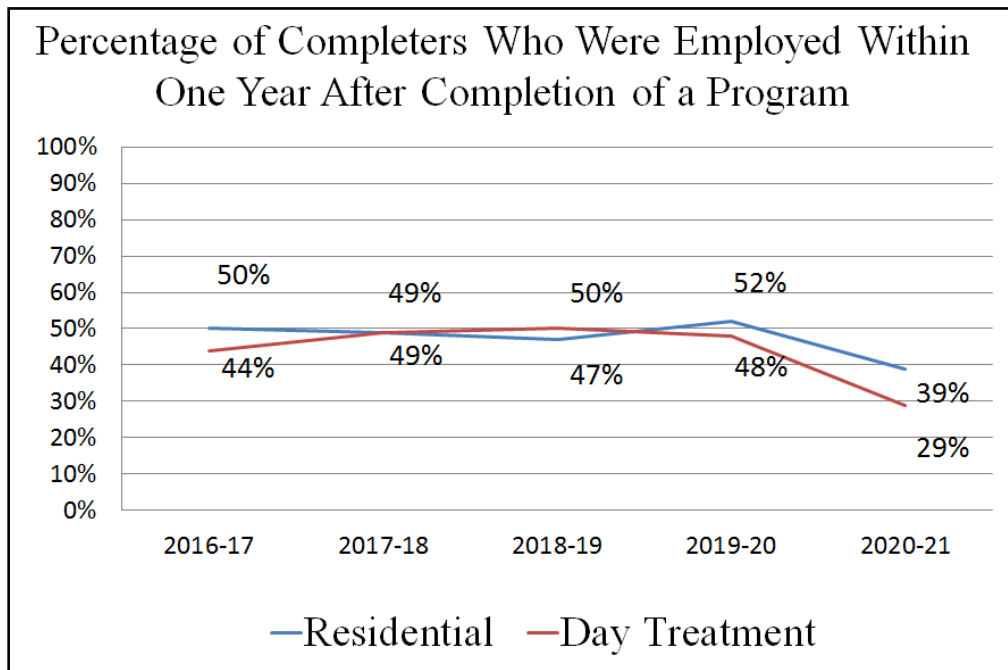
The following table provides the number and percentage of all students who were employed within one year after completion of a day treatment or residential commitment program.

DJJ Program Area	Number of Students Released from a DJJ Program During SY 2020-21 Who Completed the Program	Number of Students Released from a DJJ Program During SY 2020-21 Who Completed the Program and Were Employed in Either SY 2020-21 or SY 2021-22	Percentage of Completers Who Were Employed One Year After Completion
Residential	1,557	605	39%
Day Treatment	370	109	29%

Note: Program completion information was derived from Survey 5 Prior School Attendance data. Students were considered completers if they did not re-enroll in the same DJJ program within 30 days or return to the same program after summer break.

The chart below represents six-year trend data. The years in the chart represent the year the student was enrolled in a DJJ facility rather than the year the outcome was achieved.

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Note: Numerous factors have been discussed for decreases during Interagency Workgroup meetings including impact of COVID-19 on employment opportunities (2020-21).

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Industry Certification

The following table provides the number and percentage of students who received an industry certification.

	Number of Students Served in a DJJ in SY 2020-21	Number of Students Who Received an Industry Certification in 2020-21 or 2021-22	Percentage Receiving an Industry Certification
Students With Disabilities	2,302	41	2%
All Students	7,850	143	2%

Note: Students that completed a career and professional education (CAPE) industry certification in either 2019-20 or 2020-21 are included in the numerator.

Post-Release Activity

The following table provides the number and percentage of students who returned to a non-DJJ school upon release.

	Number of Students Served in DJJ Schools in SY 2020-21 (excluding graduates/GED® and transfers)	Number of Students Served in DJJ Schools in SY 2020-21 Who Returned to a Non-DJJ School	Percentage Who Returned to a Non-DJJ School
Students with Disabilities	1,976	1,619	82%
All Students	6,430	5,056	79%

Note: The percentage of students who returned to a non-DJJ school upon release is based on the number of students who were enrolled in a DJJ school in SY 2020-21 who were found to be enrolled in a non-DJJ school in the subsequent school year. DJJ students who were not found in a non-DJJ school the following year were excluded from the denominator if they were still in a DJJ school, had graduated, deceased or transferred to the following: adult education, out of state, private school or home school.

The following table provides the average attendance rate of students enrolled in non-DJJ schools before participation in juvenile justice education programs and the average attendance rate of students enrolled in non-DJJ schools after participation in juvenile justice education programs.

	Number of SY 2020-21 DJJ Students in Non-DJJ Schools in Both SY 2019-20 and SY 2021-22	Average Attendance Rate 2019-20	Average Attendance Rate 2021-22
Students with Disabilities	1,239	81%	69%
All Students	3,757	81%	68%

Note: Because some students are in DJJ programs for more than a year and have stays that cross school years, and programs have variable designed lengths of stay, attendance rates are based on the subset of those students who were enrolled in a DJJ school during SY 2020-21 and who had available data in the prior and subsequent school years. Attendance records are based on the number of days the subset of DJJ students were enrolled in a non-DJJ school in both the prior and subsequent years. Strategies to support successful outcomes continue to be discussed and prioritized in Interagency Workgroup meetings.

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Offenses During Supervision (ODS)

The following table provides the number and percentage of students released from a juvenile justice program who reoffended during supervision and services.

DJJ Program Area	Number of Students Released from a DJJ Program During Fiscal Year (FY) 2019-20	Number of Students Released from a DJJ Program During FY 2019-20 Who Reoffended During Supervision/Services	Percentage of Releases Who Reoffended During Supervision/Services
Residential	2,464	148	6%
Day Treatment	222	44	20%
Prevention	1,350	50	4%

***Data in this table are lagged as DJJ's Comprehensive Accountability Report (CAR) has not yet been released.

Note: These data represent only those DJJ programs that have an associated school. The release and offenses during supervision information are derived from DJJ's annual consolidated annual report (CAR) analysis data for 2019-20 releases. For the purposes of this measure, referred to as offenses during supervision (ODS), DJJ has historically reported figures based on the cohort of youth who were released from or exited programs without regard to whether those children successfully completed the program.

Recidivism

The following table provides the number and percentage of students who reoffended within one year after completion of a day treatment or residential commitment program.

DJJ Program Area	Number of Students Released from a DJJ Program During FY 2019-20 Who Completed the Program	Number of Students Released from a DJJ Program During FY 2019-20 Who Completed the Program and Reoffended Within One Year Following Completion (Recidivism)	Percentage of Completers Who Reoffended Within One Year Following Completion (Recidivism)
Residential	2,123	806	38%
Day Treatment	100	26	26%
Prevention	848	26	3%

*** Data in this table are lagged as DJJ's Comprehensive Accountability Report (CAR) has not yet been released.

Note: These data represent only those DJJ programs that have an associated school. The completion and recidivism information are derived from DJJ's annual CAR analysis data for 2019-20 releases.

Juvenile Justice Educational Programs' Funding and Costs

Juvenile justice educational programs are designed to meet the unique educational needs of students who participate in DJJ programs. The following section lists the funding and costs associated with the educational services provided in the juvenile justice programs as required by s. 1003.52(17)(b), F.S.

Funding of Juvenile Justice Educational Programs

Educational services provided to students who participate in juvenile justice programs are funded through the Florida Education Finance Program (FEFP) and expenditures for the district and individual DJJ programs are reported to FDOE by each district's finance office. The cost report data in Table 1 summarize the following for each district:

- **Unweighted full-time equivalent (UFTE):** number of UFTE students reported at the sites for the school year;
- **Direct costs:** direct classroom costs reported by the juvenile justice sites (direct costs relate to the interaction between teachers and students, including teacher and aide salaries and benefits, purchased services, materials and supplies and other classroom expenses);
- **School indirect costs:** indirect costs occurring at the school level (indirect costs include instructional support services such as pupil personnel services, instruction and curriculum development, and instructional staff training, as well as school administration and other operating costs incurred at the school level);
- **Total school costs:** all school costs (direct and school indirect) related to educational services reported for the juvenile justice sites;
- **District indirect costs:** indirect costs incurred at the district level (these include the superintendent's office, fiscal services, personnel and other central services, school board and legal costs);
- **Total program costs:** all costs (direct and indirect) related to educational services reported for juvenile justice sites;
- **FEFP funding:** FEFP funds generated by students at juvenile justice sites;
- **Categorical funding:** per full-time equivalent student share of the state's categorical allocations for instructional materials and public school technology;
- **Total school costs as a percent of funding;** and
- **Total program cost as a percent of funding.**

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Table 1: Cost Report Data

FLORIDA DEPARTMENT OF EDUCATION
OFFICE OF FUNDING AND FINANCIAL REPORTING
2021-2022 JUVENILE JUSTICE PROGRAM COST AND FEFP AND CATEGORICAL FUNDING DISTRICT TOTALS

DISTRICT	UWFE	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST	FEFP AND CATEGORICAL FUNDING	TOTAL SCHOOL COST AS A PERCENT OF FUNDING	TOTAL PROGRAM COST AS A PERCENT OF FUNDING
ALACHUA	129.01	988,610	25,485	1,014,095	29,925	1,044,020	873,895	116.04%	119.47%
BAKER	-	-	-	-	-	-	-	-	-
BAY	26.58	171,118	65,253	236,371	31,177	267,548	182,688	129.39%	146.45%
BRADFORD	-	-	-	-	-	-	-	-	-
BREVARD	47.98	631,782	234,435	866,217	36,398	902,615	330,278	262.27%	273.29%
BROWARD	218.91	2,284,305	1,130,931	3,415,236	70,088	3,485,324	1,548,185	220.60%	225.12%
CALHOUN	-	-	-	-	-	-	-	-	-
CHARLOTTE	-	-	-	-	-	-	-	-	-
CITRUS	148.41	1,008,948	126,699	1,135,647	4,344	1,139,991	969,269	117.17%	117.61%
CLAY	113.11	721,721	23,545	745,266	8,067	753,333	771,888	96.55%	97.60%
COLLIER	84.66	849,466	168,830	1,018,296	22,871	1,041,167	600,047	169.70%	173.51%
COLUMBIA	-	-	-	-	-	-	-	-	-
DADE	180.87	3,619,478	2,602,804	6,222,282	119,825	6,342,107	1,278,772	486.58%	495.95%
DESOTO	-	-	-	-	-	-	-	-	-
DIXIE	-	-	-	-	-	-	-	-	-
DUVAL	190.35	2,169,617	384,399	2,554,016	138,172	2,692,188	1,322,166	193.17%	203.62%
ESCAMBIA	129.29	1,183,243	79,509	1,262,752	66,381	1,329,133	871,646	144.87%	152.49%
FLAGLER	-	-	-	-	-	-	-	-	-
FRANKLIN	-	-	-	-	-	-	-	-	-
GADSDEN	-	-	-	-	-	-	-	-	-
GILCHRIST	-	-	-	-	-	-	-	-	-
GLADES	-	-	-	-	-	-	-	-	-
GULF	-	-	-	-	-	-	-	-	-
HAMILTON	36.10	267,975	4,114	272,089	18,787	290,876	228,208	119.23%	127.46%
HARDEE	-	-	-	-	-	-	-	-	-
HENDRY	-	-	-	-	-	-	-	-	-
HERNANDO	58.23	357,233	49,519	406,752	10,317	417,069	395,598	102.82%	105.43%
HIGHLANDS	-	-	-	-	-	-	-	-	-
HILLSBOROUGH	359.38	4,112,284	1,134,427	5,246,711	255,713	5,502,424	2,531,815	207.23%	217.33%
HOLMES	-	-	-	-	-	-	-	-	-
INDIAN RIVER	-	-	-	-	-	-	-	-	-
JACKSON	27.53	201,166	3,313	204,479	14,108	218,587	177,025	115.51%	123.48%
JEFFERSON	-	-	-	-	-	-	-	-	-
LAFAYETTE	-	-	-	-	-	-	-	-	-
LAKE	15.03	80,998	7,922	88,920	5,010	93,930	105,143	84.57%	89.34%
LEE	109.42	904,088	307,662	1,211,750	31,946	1,243,696	774,314	156.49%	160.62%
LEON	114.10	742,471	36,589	779,060	24,490	803,550	772,754	100.82%	103.99%
LEVY	-	-	-	-	-	-	-	-	-
LIBERTY	64.30	527,820	8,973	536,793	27,449	564,242	501,968	106.94%	112.41%
MADISON	16.14	113,551	6,453	120,004	19,359	139,363	102,924	116.59%	135.40%
MANATEE	178.87	1,145,873	57,442	1,203,315	20,463	1,223,778	1,211,756	99.30%	100.99%
MARION	183.05	1,416,474	305,532	1,722,006	59,058	1,781,064	1,217,357	141.45%	146.31%
MARTIN	-	-	-	-	-	-	-	-	-
MONROE	.67	33,698	-	33,698	1,095	34,793	5,094	661.52%	683.02%
NASSAU	-	-	-	-	-	-	-	-	-
OKALOOSA	123.53	827,427	158,841	986,268	27,063	1,013,331	859,868	114.70%	117.85%
OKEECHOBEE	84.28	625,953	5,075	631,028	5,938	636,966	588,431	107.24%	108.25%
ORANGE	189.79	1,692,403	992,292	2,684,695	60,557	2,745,252	1,310,673	204.83%	209.45%
OSCEOLA	66.22	546,453	287,353	833,806	38,327	872,133	459,872	181.31%	189.65%
PALM BEACH	143.94	1,526,841	298,714	1,825,555	31,733	1,857,288	1,034,234	176.51%	179.58%
PASCO	98.22	979,334	164,437	1,143,771	21,390	1,165,161	670,270	170.64%	173.83%
PINELLAS	168.45	2,126,598	538,215	2,664,813	81,530	2,746,343	1,152,380	231.24%	238.32%
POLK	147.18	997,894	316,980	1,314,874	18,001	1,332,875	977,490	134.52%	136.36%
PUTNAM	-	-	-	-	-	-	-	-	-
ST. JOHNS	103.95	782,025	18,063	800,088	7,058	807,146	725,226	110.32%	111.30%
ST. LUCIE	106.79	887,926	272,463	1,160,389	22,883	1,183,272	729,138	159.15%	162.28%
SANTA ROSA	-	-	-	-	-	-	-	-	-
SARASOTA	-	-	-	-	-	-	-	-	-
SEMINOLE	-	-	-	-	-	-	-	-	-
SUMTER	-	-	-	-	-	-	-	-	-
SUWANNEE	-	-	-	-	-	-	-	-	-
TAYLOR	-	-	-	-	-	-	-	-	-
UNION	-	-	-	-	-	-	-	-	-
VOLUSIA	109.98	1,153,074	360,792	1,513,866	83,330	1,597,196	748,826	202.17%	213.29%
WAKULLA	-	-	-	-	-	-	-	-	-
WALTON	26.74	455,763	5,425	461,188	7,866	469,054	184,811	249.55%	253.80%
WASHINGTON	-	-	-	-	-	-	-	-	-
TOTAL	3,801.06	36,133,610	10,182,486	46,316,096	1,420,719	47,736,815	26,214,009	176.68%	182.10%

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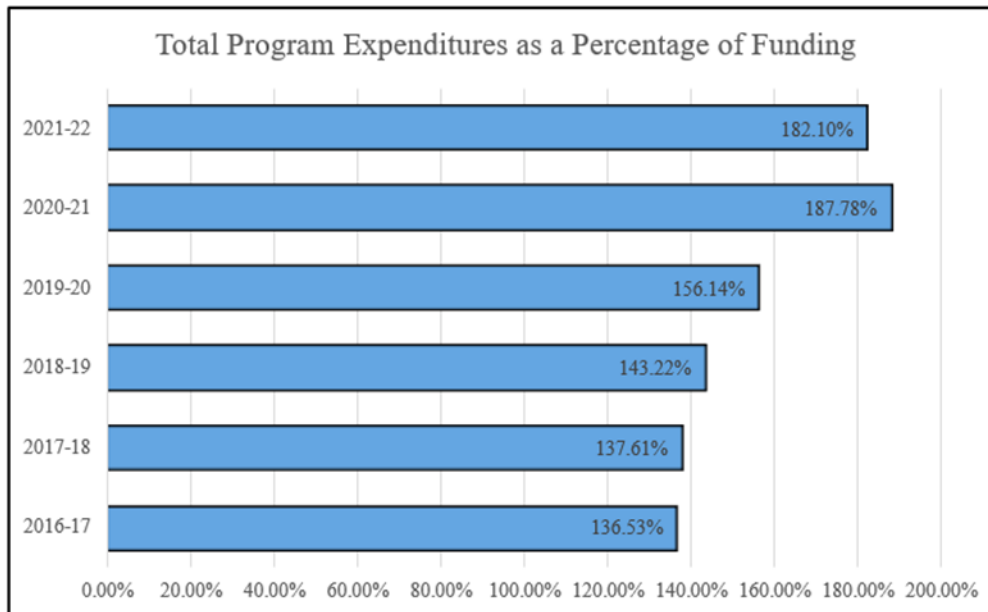
Appendices A and B include analyses for each district and program site for all programs provided at the facility. Appendix A reports direct costs, school indirect costs, total school costs, district indirect costs and total program costs. Appendix B reports UFTE, FEFP and categorical funding, total program costs and the total excess revenue or cost of the program at each site.

Appendix C includes an analysis of the ESE programs for each district and program site. This analysis includes UFTE, FEFP and categorical funding, direct costs, school indirect costs, total school costs, district indirect costs and total program costs.

It is important to note that FEFP revenue supports the total operating costs of school districts (classroom instruction, school support costs and district support costs). In the case of DJJ programs, DJJ bears some of these costs. There are minimal to no utilities, custodial, maintenance or other facility-related costs for the program. There may also be reductions in other school support costs, such as school administration, counseling and other pupil personnel costs.

At the state level, SY 2021-22 total program expenditures (costs) were 182.10 percent of the FEFP and categorical funding (revenue). The greatest variation among districts is likely teacher salaries. Teacher salaries greatly influence site-to-site comparisons of costs to revenue and cost per FTE students. There is also variability due to the small size of some programs.

The chart below represents six-year trend data of the percent of the FEFP and categorical funding spent for total program expenditures at the state level.



Cooperative Agreements and Educational Service Contracts

Each school district providing educational services to students in a DJJ facility must negotiate a cooperative agreement with DJJ and may negotiate educational service contracts with private education service providers if they do not directly provide the education services. In SY 2021-22, there were 34 districts with cooperative agreements. There were 46 contracts for educational services with private education service providers in 30 districts.

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Services to Exceptional Education Students

The Florida Department of Education, Bureau of Exceptional Education and Student Services, in carrying out its roles of leadership, resource allocation, technical assistance, monitoring and evaluation, is required to oversee the performance of district school boards in the enforcement of all exceptional student education (ESE) laws and rules (sections 1001.03(8), 1003.571 and 1008.32, Florida Statutes [F.S.]). To the extent applicable, all districts participate in Level 1 desktop monitoring by completing web-based self-assessment protocols related to basic ESE procedures. In addition, some districts are required to complete additional self-assessment(s) in Level 2 desktop monitoring by completing indicator-specific “focused” protocols. A sampling of records from each district, inclusive of DJJ Schools, are selected for validation. Districts are responsible for identifying and correcting identified noncompliance after the FDOE reviews and validates their records. According to the SY 2021-22 state summary results of the 34 districts with DJJ facilities within their jurisdiction, two student Individual Educational Plans (IEPs) were selected for review and determined compliant.

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Recommendations for System Improvement

The provision of guidance and support to school districts and contracted educational providers focuses on the goal of developing school improvement processes leading to increased student achievement through district collaboration and progress monitoring.

Specific activities supported by FDOE's Bureau of School Improvement and DJJ's Office of Education for SY 2022-23 include:

- Development of sustainable access to postsecondary and career readiness skills for all students through the addition of a career and technical education deputy director at DJJ and partnership between DJJ and Tallahassee Community College.
- Increased strategic alignment of capabilities, resources, and monitoring systems to support excellent teaching and continuous school improvement through monitoring of school improvement plans and collaborating with other bureaus as applicable for onsite evaluations. Continued technical assistance and support to districts to ensure students with disabilities are identified and receive appropriate educational services as required under the Individuals with Disabilities Education Act of 2004 and Section 504 of the Rehabilitation Act of 1973.
- Development of an electronic toolkit by the DJJ Office of Education to include professional development and training resources and videos for the following: Vocational Rehabilitation referral process for juvenile justice students; quality education transition plans and progress monitoring plans; education transition process; self-advocacy and student-led treatment team meetings; and establishment and enhancement of career and technical education.
- Continued technical assistance and support on the implementation of revised Rule 6A-6.05281, Florida Administrative Code (F.A.C.), specific to course scheduling, curricular flexibility, delineation of course completion on cumulative academic transcripts and guidance services in juvenile detention centers.

Significant achievement and activities contributing to system improvement during SY 2021-22:

- Revision of Rule 6A-6.05281, F.A.C., incorporating revisions for educational programs in the DJJ by amendments to Florida Statutes; updating and clarifying language, processes and timelines; and developing curricular flexibility options and transition processes for students in juvenile detention centers.
- Release of the 2021-22 DJJ Education Program Accountability Ratings and implemented year one and year two onsite evaluations in SY 2022-23. Five schools were released from the school improvement cycle for 2022-23.
- Inclusion of the Bureau of Exceptional Education and Student Services in school improvement on-site evaluations and review of school improvement plans.
- Inclusion of DJJ schools with a 2021-22 unsatisfactory rating in the Bureau of School Improvement Summer Academy to support district and school leaders.
- Creation of professional development videos by the DJJ Office of Education to support teacher, administrators and transition staff serving student in DJJ schools.
- Partnership between DJJ and Tallahassee Community College to deliver workforce education and career readiness service in three DJJ facilities.
- Postsecondary education access to all eligible students in commitment or on supervision.
- Addition of a career and technical education deputy director at the DJJ to maximize student completion of industry recognized credentials of value and support districts and schools with CTE initiatives.

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- Addition of a new records upload feature for detention education transition plans in the juvenile justice information system maintained by the DJJ.
- Allocation of \$20,000,000 of the Elementary and Secondary Schools Emergency Relief Fund, American Rescue Plan to support contracted educational provider organizations of juvenile justice programs with the implementation of evidence-based intervention strategies and programs that address learning loss of students as a result of the coronavirus.

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Appendix A: DJJ Sites

FLORIDA DEPARTMENT OF EDUCATION
OFFICE OF FUNDING AND FINANCIAL REPORTING
2021-2022 LIST OF DJJ SITES

DISTRICT	SCHOOL NAME	COST CENTER	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST
ALACHUA	ALACHUA ACADEMY	0602	178,247	6,369	184,616	7,478	192,094
ALACHUA	AMIKIDS	0603	117,884	6,379	124,263	7,491	131,754
ALACHUA	PACE	0604	470,734	6,369	477,103	7,479	484,582
ALACHUA	ALACHUA REGIONAL JUVENILE DETENTION CENTER	9029	221,745	6,368	228,113	7,477	235,590
		DISTRICT TOTAL	988,610	25,485	1,014,095	29,925	1,044,020
BAY	BAY REGIONAL JUVENILE DETENTION CENTER	0602	171,118	65,253	236,371	31,177	267,548
		DISTRICT TOTAL	171,118	65,253	236,371	31,177	267,548
BREVARD	BREVARD GROUP TREATMENT HOME	1002	8,869	9,653	18,522	3,194	21,716
BREVARD	OUTWARD BOUND	1020	-	-	-	-	-
BREVARD	BREVARD COUNTY JUVENILE DETENTION CENTER	1025	515,454	221,762	737,216	30,029	767,245
BREVARD	MELBOURNE CENTER FOR PERSONAL GROWTH	1027	107,459	3,020	110,479	3,175	113,654
		DISTRICT TOTAL	631,782	234,435	866,217	36,398	902,615
BROWARD	BROWARD DETENTION CENTER	6011	1,013,451	646,995	1,660,446	40,313	1,700,759
BROWARD	POMPANO YOUTH TREATMENT CENTER	6016	41,650	51,866	93,516	4,181	97,697
BROWARD	BROWARD YOUTH TREATMENT CENTER	6017	461,140	408,580	869,720	17,407	887,127
BROWARD	AMIKIDS OF GREATER FORT LAUDERDALE	6051	157,021	11,768	168,789	4,090	172,879
BROWARD	PACE CENTER FOR GIRLS, INC.	6091	611,043	11,722	622,765	4,097	626,862
		DISTRICT TOTAL	2,284,305	1,130,931	3,415,236	70,088	3,485,324
CITRUS	CYPRESS CREEK TREATMENT CENTER	8001	668,784	38,417	707,201	2,171	709,372
CITRUS	PACE CENTER FOR GIRLS	8003	340,164	88,282	428,446	2,173	430,619
		DISTRICT TOTAL	1,008,948	126,699	1,135,647	4,344	1,139,991
CLAY	PACE CENTER FOR GIRLS CLAY	0112	334,422	15,622	350,044	4,034	354,078
CLAY	AMIKIDS CLAY COUNTY	0113	387,299	7,923	395,222	4,033	399,255
		DISTRICT TOTAL	721,721	23,545	745,266	8,067	753,333
COLLIER	COLLIER JUVENILE DETENTION CENTER	9013	470,055	146,510	616,565	16,657	633,222
COLLIER	THE PACE PROGRAM	9017	379,411	22,320	401,731	6,214	407,945
		DISTRICT TOTAL	849,466	168,830	1,018,296	22,871	1,041,167
DADE	AMIKIDS MIAMI-DADE SOUTH	7804	182,687	63,477	246,164	5,327	251,491
DADE	AMIKIDS MIAMI-DADE NORTH	7805	201,919	61,352	263,271	5,281	268,552
DADE	MIAMI YOUTH ACADEMY	7811	923,377	348,082	1,271,459	29,498	1,300,957
DADE	PACE CENTER FOR GIRLS	8012	255,981	61,257	317,238	5,280	322,518
DADE	JUVENILE JUSTICE CENTER ALT ED	8141	2,055,514	2,068,636	4,124,150	74,439	4,198,589
		DISTRICT TOTAL	3,619,478	2,602,804	6,222,282	119,825	6,342,107
DUVAL	DUVAL ACADEMY	0411	230,153	72,131	302,284	21,952	324,236
DUVAL	IMPACT HALFWAY HOUSE	0431	409,588	63,672	473,260	27,223	500,483
DUVAL	DUVAL REGIONAL JUVENILE DETENTION CENTER	0491	742,274	235,368	977,642	72,925	1,050,567
DUVAL	PACE CENTER FOR GIRLS-JAX	0811	353,998	7,259	361,257	8,036	369,293
DUVAL	AMIKIDS JACKSONVILLE	1851	433,604	5,969	439,573	8,036	447,609
		DISTRICT TOTAL	2,169,617	384,399	2,554,016	138,172	2,692,188
ESCAMBIA	ESCAMBIA JUVENILE DETENTION	0916	416,709	28,455	445,164	23,682	468,846
ESCAMBIA	ESCAMBIA BOYS' BASE	0961	310,620	24,407	335,027	20,478	355,505
ESCAMBIA	PACE PROGRAM	2034	455,914	26,647	482,561	22,221	504,782
		DISTRICT TOTAL	1,183,243	79,509	1,262,752	66,381	1,329,133
HAMILTON	OAK GROVE ACADEMY	9009	267,975	4,114	272,089	18,787	290,876
		DISTRICT TOTAL	267,975	4,114	272,089	18,787	290,876

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FLORIDA DEPARTMENT OF EDUCATION
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DISTRICT	SCHOOL NAME	COST CENTER	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST
HERNANDO	PACE CENTER FOR GIRLS	0342	286,865	7,539	294,404	5,496	299,900
HERNANDO	CENTER FOR SUCCESS AND INDEPENDENCE BROOKSVILLE ACADEMY	8015	70,368	41,980	112,348	4,821	117,169
		DISTRICT TOTAL	357,233	49,519	406,752	10,317	417,069
HILLSBOROUGH	HILLSBOROUGH GIRLS ACADEMY	5042	356,088	72,972	429,060	23,587	452,647
HILLSBOROUGH	DETENTION CENTER, WEST	5044	821,902	384,288	1,206,190	58,913	1,265,103
HILLSBOROUGH	LES PETERS ACADEMY	5048	312,356	76,914	389,270	22,886	412,156
HILLSBOROUGH	AMI KIDS TAMPA	5051	336,305	19,205	355,510	13,120	368,630
HILLSBOROUGH	AMI KIDS YES	5052	238,135	61,515	299,650	14,714	314,364
HILLSBOROUGH	PACE CENTER FOR GIRLS	5054	513,061	100,571	613,632	6,323	619,955
HILLSBOROUGH	TAMPA RESIDENTIAL FACILITY	5056	617,900	194,299	812,199	46,860	859,059
HILLSBOROUGH	COLUMBUS RESIDENTIAL JUVENILE FACILITY	5062	555,001	112,335	667,336	38,873	706,209
HILLSBOROUGH	LAKE ACADEMY	5071	361,536	112,328	473,864	30,437	504,301
HILLSBOROUGH	LAKE ACADEMY SECURE	5109	-	-	-	-	-
		DISTRICT TOTAL	4,112,284	1,134,427	5,246,711	255,713	5,502,424
JACKSON	THE DOVE (DEVELOPING OPPORTUNITIES THRU VOC. ED.)	9020	201,166	3,313	204,479	14,108	218,587
		DISTRICT TOTAL	201,166	3,313	204,479	14,108	218,587
LAKE	HOPE FOREST ACADEMY	9002	80,998	7,922	88,920	5,010	93,930
		DISTRICT TOTAL	80,998	7,922	88,920	5,010	93,930
LEE	PACE SCHOOL FOR GIRLS	0653	505,106	5,748	510,854	5,599	516,453
LEE	SOUTHWEST FLORIDA JUVENILE DETENTION CENTER	0661	398,982	301,914	700,896	26,347	727,243
		DISTRICT TOTAL	904,088	307,662	1,211,750	31,946	1,243,696
LEON	LEON CO JUVENILE DETENTION CENTER	1502	249,497	27,472	276,969	18,371	295,340
LEON	PACE CENTER FOR GIRLS	1503	492,974	9,117	502,091	6,119	508,210
		DISTRICT TOTAL	742,471	36,589	779,060	24,490	803,550
LIBERTY	LIBERTY WILDERNESS CROSSROADS	0051	160,352	4,493	164,845	13,745	178,590
LIBERTY	APALACHICOLA FOREST YOUTH ACADEMY	0053	367,468	4,480	371,948	13,704	385,652
		DISTRICT TOTAL	527,820	8,973	536,793	27,449	564,242
MADISON	JOANN BRIDGES ACADEMY	0925	113,551	6,453	120,004	19,359	139,363
		DISTRICT TOTAL	113,551	6,453	120,004	19,359	139,363
MANATEE	PACE CENTER FOR GIRLS	2004	473,370	9,037	482,407	4,202	486,609
MANATEE	JUVENILE DETENTION CENTER	2051	361,350	39,368	400,718	12,060	412,778
MANATEE	AMIKIDS MANATEE	2081	311,153	9,037	320,190	4,201	324,391
		DISTRICT TOTAL	1,145,873	57,442	1,203,315	20,463	1,223,778
MARION	MARION YOUTH ACADEMY	9721	435,799	204,152	639,951	32,205	672,156
MARION	MARION REG. JUVENILE DETENTION CENTER	9722	424,545	75,532	500,077	10,082	510,159
MARION	OCALA CENTER FOR SUCCESS AND INDEPENDENCE	9728	165,343	18,973	184,316	10,131	194,447
MARION	PACE CENTER FOR GIRLS, INC.	9734	390,787	6,875	397,662	6,640	404,302
		DISTRICT TOTAL	1,416,474	305,532	1,722,006	59,058	1,781,064
MONROE	MONROE JUVENILE DETENTION CENTER	0294	33,698	-	33,698	1,095	34,793
		DISTRICT TOTAL	33,698	-	33,698	1,095	34,793
OKALOOSA	CRESTVIEW YOUTH ACADEMY	9811	183,073	56,429	239,502	6,749	246,251
OKALOOSA	OKALOOSA YOUTH ACADEMY	9812	372,034	70,314	442,348	6,742	449,090
OKALOOSA	OKALOOSA REGIONAL DETENTION	9813	60,698	20,952	81,650	6,746	88,396
OKALOOSA	CRESTVIEW YOUTH ACADEMY (NON SECURE)	9821	211,622	11,146	222,768	6,826	229,594
		DISTRICT TOTAL	827,427	158,841	986,268	27,063	1,013,331

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FLORIDA DEPARTMENT OF EDUCATION
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DISTRICT	SCHOOL NAME	COST CENTER	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST
OKEECHOBEE	TANTIE	9103	625,953	5,075	631,028	5,938	636,966
		DISTRICT TOTAL	625,953	5,075	631,028	5,938	636,966
ORANGE	AMIKIDS ORLANDO	0101	161,273	7,434	168,707	3,810	172,517
ORANGE	JUVENILE DETENTION	1311	836,624	677,019	1,513,643	34,262	1,547,905
ORANGE	PACE CENTER FOR GIRLS	1691	244,837	6,880	251,717	3,786	255,503
ORANGE	ORANGE YOUTH ACADEMY	8009	449,669	300,959	750,628	18,699	769,327
		DISTRICT TOTAL	1,692,403	992,292	2,684,695	60,557	2,745,252
OSCEOLA	HERITAGE PARK ACADEMY	0859	546,453	287,353	833,806	38,327	872,133
		DISTRICT TOTAL	546,453	287,353	833,806	38,327	872,133
PALM BEACH	PALM BEACH REGIONAL DETENTION CENTER	3006	641,048	266,637	907,685	15,235	922,920
PALM BEACH	PACE CENTER FOR GIRLS	3010	482,726	6,154	488,880	3,423	492,303
PALM BEACH	PALM BEACH JUVENILE CORRECTIONAL FACILITY	3354	403,067	25,923	428,990	13,075	442,065
		DISTRICT TOTAL	1,526,841	298,714	1,825,555	31,733	1,857,288
PASCO	CENTRAL PASCO GIRLS ACADEMY	4081	247,854	27,253	275,107	7,601	282,708
PASCO	PACE CENTER FOR GIRLS	5242	425,893	54,665	480,558	2,360	482,918
PASCO	JUVENILE DETENTION CENTER	7081	305,587	82,519	388,106	11,429	399,535
		DISTRICT TOTAL	979,334	164,437	1,143,771	21,390	1,165,161
PINELLAS	STRIVE ACADEMY	8006	576,850	176,865	753,715	26,742	780,457
PINELLAS	CHARLES BRITT ACADEMY	8012	347,674	107,579	455,253	16,302	471,555
PINELLAS	PACE CENTER FOR GIRLS	8028	500,538	29,556	530,094	4,512	534,606
PINELLAS	PINELLAS JUVENILE DET CENTER	8031	701,536	224,215	925,751	33,974	959,725
		DISTRICT TOTAL	2,126,598	538,215	2,664,813	81,530	2,746,343
POLK	POLK HALFWAY HOUSE	9207	115,262	103,307	218,569	4,401	222,970
POLK	PACE CENTER FOR GIRLS	9225	502,243	10,202	512,445	2,315	514,760
POLK	POLK COUNTY SHERIFFS REGIONAL DETENTION CENTER	9236	276,762	179,429	456,191	6,664	462,855
POLK	ECKERD CONNECTS	9240	103,627	24,042	127,669	4,621	132,290
		DISTRICT TOTAL	997,894	316,980	1,314,874	18,001	1,332,875
ST. JOHNS	DEEP CREEK YOUTH ACADEMY	0417	396,182	9,956	406,138	3,622	409,760
ST. JOHNS	ST JOHNS COUNTY JUVENILE RESIDENTIAL	0442	385,843	8,107	393,950	3,436	397,386
		DISTRICT TOTAL	782,025	18,063	800,088	7,058	807,146
ST. LUCIE	ST. LUCIE DETENTION CENTER	5001	550,361	264,931	815,292	18,999	834,291
ST. LUCIE	PACE CENTER FOR GIRLS, TREASURE COAST	5031	337,565	7,532	345,097	3,884	348,981
		DISTRICT TOTAL	887,926	272,463	1,160,389	22,883	1,183,272
VOLUSIA	AMIKIDS VOLUSIA	8031	94,755	7,029	101,784	6,303	108,087
VOLUSIA	VOLUSIA REGIONAL JUVENILE DETENTION CENTER	9801	296,935	305,407	602,342	34,075	636,417
VOLUSIA	PACE CENTER FOR GIRLS	9808	352,170	7,519	359,689	6,301	365,990
VOLUSIA	DAYTONA JUVENILE RESIDENTIAL FACILITY	9817	409,214	40,837	450,051	36,651	486,702
		DISTRICT TOTAL	1,153,074	360,792	1,513,866	83,330	1,597,196
WALTON	WALTON LEARNING CENTER	2021	455,763	5,425	461,188	7,866	469,054
		DISTRICT TOTAL	455,763	5,425	461,188	7,866	469,054

STATE TOTAL 36,133,610 10,182,486 46,316,096 1,420,719 47,736,815

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Appendix B: DJJ Sites with Program Costs

FLORIDA DEPARTMENT OF EDUCATION
OFFICE OF FUNDING AND FINANCIAL REPORTING
2021-2022 LIST OF DJJ SITES WITH PROGRAM COST

DISTRICT	SCHOOL NAME	COST CENTER	UWFE	FEFP AND CATEGORICALS	TOTAL PROGRAM COST	TOTAL EXCESS (REVENUE) COST
ALACHUA	ALACHUA ACADEMY	0602	14.01	92,752	192,094	99,342
ALACHUA	AMIKIDS	0603	16.31	109,318	131,754	22,436
ALACHUA	PACE	0604	68.21	462,189	484,582	22,393
ALACHUA	ALACHUA REGIONAL JUVENILE DETENTION CENTER	9029	30.48	209,636	235,590	25,954
		DISTRICT TOTAL	129.01	873,895	1,044,020	170,125
BAY	BAY REGIONAL JUVENILE DETENTION CENTER	0602	26.58	182,688	267,548	84,860
		DISTRICT TOTAL	26.58	182,688	267,548	84,860
BREVARD	BREVARD GROUP TREATMENT HOME	1002	13.88	96,250	21,716	(74,534)
BREVARD	OUTWARD BOUND	1020	-	-	-	-
BREVARD	BREVARD COUNTY JUVENILE DETENTION CENTER	1025	18.52	127,045	767,245	640,200
BREVARD	MELBOURNE CENTER FOR PERSONAL GROWTH	1027	15.58	106,983	113,654	6,671
		DISTRICT TOTAL	47.98	330,278	902,615	572,337
BROWARD	BROWARD DETENTION CENTER	6011	62.93	467,351	1,700,759	1,233,408
BROWARD	POMPANO YOUTH TREATMENT CENTER	6016	2.25	15,423	97,697	82,274
BROWARD	BROWARD YOUTH TREATMENT CENTER	6017	38.45	270,043	887,127	617,084
BROWARD	AMIKIDS OF GREATER FORT LAUDERDALE	6051	19.12	132,085	172,879	40,794
BROWARD	PACE CENTER FOR GIRLS, INC.	6091	96.16	663,283	626,862	(36,421)
		DISTRICT TOTAL	218.91	1,548,185	3,485,324	1,937,139
CITRUS	CYPRESS CREEK TREATMENT CENTER	8001	98.50	646,652	709,372	62,720
CITRUS	PACE CENTER FOR GIRLS	8003	49.91	322,617	430,619	108,002
		DISTRICT TOTAL	148.41	969,269	1,139,991	170,722
CLAY	PACE CENTER FOR GIRLS CLAY	0112	55.02	377,351	354,078	(23,273)
CLAY	AMIKIDS CLAY COUNTY	0113	58.09	394,537	399,255	4,718
		DISTRICT TOTAL	113.11	771,888	753,333	(18,555)
COLLIER	COLLIER JUVENILE DETENTION CENTER	9013	22.10	159,859	633,222	473,363
COLLIER	THE PACE PROGRAM	9017	62.56	440,188	407,945	(32,243)
		DISTRICT TOTAL	84.66	600,047	1,041,167	441,120
DADE	AMIKIDS MIAMI-DADE SOUTH	7804	19.26	139,101	251,491	112,390
DADE	AMIKIDS MIAMI-DADE NORTH	7805	20.19	141,679	268,552	126,873
DADE	MIAMI YOUTH ACADEMY	7811	27.16	193,239	1,300,957	1,107,718
DADE	PACE CENTER FOR GIRLS	8012	46.71	324,996	322,518	(2,478)
DADE	JUVENILE JUSTICE CENTER ALT ED	8141	67.55	479,757	4,198,589	3,718,832
		DISTRICT TOTAL	180.87	1,278,772	6,342,107	5,063,335
DUVAL	DUVAL ACADEMY	0411	27.61	191,982	324,236	132,254
DUVAL	IMPACT HALFWAY HOUSE	0431	21.38	148,180	500,483	352,303
DUVAL	DUVAL REGIONAL JUVENILE DETENTION CENTER	0491	70.49	495,271	1,050,567	555,296
DUVAL	PACE CENTER FOR GIRLS-JAX	0811	52.49	358,338	369,293	10,955
DUVAL	AMIKIDS JACKSONVILLE	1851	18.38	128,395	447,609	319,214
		DISTRICT TOTAL	190.35	1,322,166	2,692,188	1,370,022
ESCAMBIA	ESCAMBIA JUVENILE DETENTION	0916	37.95	257,914	468,846	210,932
ESCAMBIA	ESCAMBIA BOYS' BASE	0961	16.72	110,888	355,505	244,617
ESCAMBIA	PACE PROGRAM	2034	74.62	502,844	504,782	1,938
		DISTRICT TOTAL	129.29	871,646	1,329,133	457,487

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DISTRICT	SCHOOL NAME	COST CENTER	UWFTE	FEFP AND CATEGORICALS	TOTAL PROGRAM COST	TOTAL EXCESS (REVENUE) COST
HAMILTON	OAK GROVE ACADEMY	9009	36.10	228,208	290,876	62,668
		DISTRICT TOTAL	36.10	228,208	290,876	62,668
HERNANDO	PACE CENTER FOR GIRLS	0342	47.65	316,889	299,900	(16,989)
HERNANDO	CENTER FOR SUCCESS AND INDEPENDENCE BROOKSVILLE ACADEMY	8015	10.58	78,709	117,169	38,460
		DISTRICT TOTAL	58.23	395,598	417,069	21,471
HILLSBOROUGH	HILLSBOROUGH GIRLS ACADEMY	5042	22.50	153,889	452,647	298,758
HILLSBOROUGH	DETENTION CENTER, WEST	5044	68.45	529,938	1,265,103	735,165
HILLSBOROUGH	LES PETERS ACADEMY	5048	15.95	107,515	412,156	304,641
HILLSBOROUGH	AMI KIDS TAMPA	5051	51.77	358,965	368,630	9,665
HILLSBOROUGH	AMI KIDS YES	5052	19.35	132,595	314,364	181,769
HILLSBOROUGH	PACE CENTER FOR GIRLS	5054	74.43	502,992	619,955	116,963
HILLSBOROUGH	TAMPA RESIDENTIAL FACILITY	5056	32.93	230,931	859,059	628,128
HILLSBOROUGH	COLUMBUS RESIDENTIAL JUVENILE FACILITY	5062	49.50	346,698	706,209	359,511
HILLSBOROUGH	LAKE ACADEMY	5071	24.50	168,292	504,301	336,009
HILLSBOROUGH	LAKE ACADEMY SECURE	5109	-	-	-	-
		DISTRICT TOTAL	359.38	2,531,815	5,502,424	2,970,609
JACKSON	THE DOVE (DEVELOPING OPPORTUNITIES THRU VOC. ED.)	9020	27.53	177,025	218,587	41,562
		DISTRICT TOTAL	27.53	177,025	218,587	41,562
LAKE	HOPE FOREST ACADEMY	9002	15.03	105,143	93,930	(11,213)
		DISTRICT TOTAL	15.03	105,143	93,930	(11,213)
LEE	PACE SCHOOL FOR GIRLS	0653	75.77	524,647	516,453	(8,194)
LEE	SOUTHWEST FLORIDA JUVENILE DETENTION CENTER	0661	33.65	249,667	727,243	477,576
		DISTRICT TOTAL	109.42	774,314	1,243,696	469,382
LEON	LEON CO JUVENILE DETENTION CENTER	1502	34.30	236,643	295,340	58,697
LEON	PACE CENTER FOR GIRLS	1503	79.80	536,111	508,210	(27,901)
		DISTRICT TOTAL	114.10	772,754	803,550	30,796
LIBERTY	LIBERTY WILDERNESS CROSSROADS	0051	23.75	157,029	178,590	21,561
LIBERTY	APALACHICOLA FOREST YOUTH ACADEMY	0053	40.55	344,939	385,652	40,713
		DISTRICT TOTAL	64.30	501,968	564,242	62,274
MADISON	JOANN BRIDGES ACADEMY	0925	16.14	102,924	139,363	36,439
		DISTRICT TOTAL	16.14	102,924	139,363	36,439
MANATEE	PACE CENTER FOR GIRLS	2004	75.61	507,556	486,609	(20,947)
MANATEE	JUVENILE DETENTION CENTER	2051	52.00	350,979	412,778	61,799
MANATEE	AMIKIDS MANATEE	2081	51.26	353,221	324,391	(28,830)
		DISTRICT TOTAL	178.87	1,211,756	1,223,778	12,022
MARION	MARION YOUTH ACADEMY	9721	24.05	158,700	672,156	513,456
MARION	MARION REG. JUVENILE DETENTION CENTER	9722	48.90	329,594	510,159	180,565
MARION	OCALA CENTER FOR SUCCESS AND INDEPENDENCE	9728	58.61	391,961	194,447	(197,514)
MARION	PACE CENTER FOR GIRLS, INC.	9734	51.49	337,102	404,302	67,200
		DISTRICT TOTAL	183.05	1,217,357	1,781,064	563,707

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DISTRICT	SCHOOL NAME	COST CENTER	UWLTE	FEFP AND CATEGORICALS	TOTAL PROGRAM COST	TOTAL EXCESS (REVENUE) COST
MONROE	MONROE JUVENILE DETENTION CENTER	0294	.67	5,094	34,793	29,699
		DISTRICT TOTAL	.67	5,094	34,793	29,699
OKALOOSA	CRESTVIEW YOUTH ACADEMY	9811	31.37	216,815	246,251	29,436
OKALOOSA	OKALOOSA YOUTH ACADEMY	9812	59.00	406,437	449,090	42,653
OKALOOSA	OKALOOSA REGIONAL DETENTION	9813	9.27	67,763	88,396	20,633
OKALOOSA	CRESTVIEW YOUTH ACADEMY (NON SECURE)	9821	23.89	168,853	229,594	60,741
		DISTRICT TOTAL	123.53	859,868	1,013,331	153,463
OKEECHOBEE	TANTIE	9103	84.28	588,431	636,966	48,535
		DISTRICT TOTAL	84.28	588,431	636,966	48,535
ORANGE	AMIKIDS ORLANDO	0101	25.21	173,695	172,517	(1,178)
ORANGE	JUVENILE DETENTION	1311	63.45	437,243	1,547,905	1,110,662
ORANGE	PACE CENTER FOR GIRLS	1691	40.06	270,419	255,503	(14,916)
ORANGE	ORANGE YOUTH ACADEMY	8009	61.07	429,316	769,327	340,011
		DISTRICT TOTAL	189.79	1,310,673	2,745,252	1,434,579
OSCEOLA	HERITAGE PARK ACADEMY	0859	66.22	459,872	872,133	412,261
		DISTRICT TOTAL	66.22	459,872	872,133	412,261
PALM BEACH	PALM BEACH REGIONAL DETENTION CENTER	3006	35.28	260,966	922,920	661,954
PALM BEACH	PACE CENTER FOR GIRLS	3010	73.24	516,198	492,303	(23,895)
PALM BEACH	PALM BEACH JUVENILE CORRECTIONAL FACILITY	3354	35.42	257,070	442,065	184,995
		DISTRICT TOTAL	143.94	1,034,234	1,857,288	823,054
PASCO	CENTRAL PASCO GIRLS ACADEMY	4081	11.72	79,612	282,708	203,096
PASCO	PACE CENTER FOR GIRLS	5242	60.39	413,339	482,918	69,579
PASCO	JUVENILE DETENTION CENTER	7081	26.11	177,319	399,535	222,216
		DISTRICT TOTAL	98.22	670,270	1,165,161	494,891
PINELLAS	STRIVE ACADEMY	8006	18.06	123,457	780,457	657,000
PINELLAS	CHARLES BRITT ACADEMY	8012	32.07	220,977	471,555	250,578
PINELLAS	PACE CENTER FOR GIRLS	8028	65.47	442,224	534,606	92,382
PINELLAS	PINELLAS JUVENILE DET CENTER	8031	52.85	365,722	959,725	594,003
		DISTRICT TOTAL	168.45	1,152,380	2,746,343	1,593,963
POLK	POLK HALFWAY HOUSE	9207	21.50	144,325	222,970	78,645
POLK	PACE CENTER FOR GIRLS	9225	73.60	484,211	514,760	30,549
POLK	POLK COUNTY SHERIFFS REGIONAL DETENTION CENTER	9236	30.25	203,808	462,855	259,047
POLK	ECKERD CONNECTS	9240	21.83	145,146	132,290	(12,856)
		DISTRICT TOTAL	147.18	977,490	1,332,875	355,385
ST. JOHNS	DEEP CREEK YOUTH ACADEMY	0417	49.28	351,308	409,760	58,452
ST. JOHNS	ST JOHNS COUNTY JUVENILE RESIDENTIAL	0442	54.67	373,918	397,386	23,468
		DISTRICT TOTAL	103.95	725,226	807,146	81,920
ST. LUCIE	ST. LUCIE DETENTION CENTER	5001	47.95	334,648	834,291	499,643
ST. LUCIE	PACE CENTER FOR GIRLS, TREASURE COAST	5031	58.84	394,490	348,981	(45,509)
		DISTRICT TOTAL	106.79	729,138	1,183,272	454,134

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DISTRICT	SCHOOL NAME	COST CENTER	UWFTE	FEFP AND CATEGORICALS	TOTAL PROGRAM COST	TOTAL EXCESS (REVENUE) COST
VOLUSIA	AMIKIDS VOLUSIA	8031	12.20	83,553	108,087	24,534
VOLUSIA	VOLUSIA REGIONAL JUVENILE DETENTION CENTER	9801	48.41	335,978	636,417	300,439
VOLUSIA	PACE CENTER FOR GIRLS	9808	44.73	296,127	365,990	69,863
VOLUSIA	DAYTONA JUVENILE RESIDENTIAL FACILITY	9817	4.64	33,168	486,702	453,534
		DISTRICT TOTAL	109.98	748,826	1,597,196	848,370
WALTON	WALTON LEARNING CENTER	2021	26.74	184,811	469,054	284,243
		DISTRICT TOTAL	26.74	184,811	469,054	284,243
STATE TOTAL			3,801.06	26,214,009	47,736,815	\$21,522,806

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Appendix C: DJJ Sites - Exceptional Student Education

FLORIDA DEPARTMENT OF EDUCATION
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DISTRICT	SCHOOL NAME	COST CENTER	UWFE	FEFP AND CATEGORICALS	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST
ALACHUA	ALACHUA ACADEMY	0602	.82	6,099	11,160	398	11,558	467	12,025
ALACHUA	AMIKIDS	0603	2.73	20,236	19,946	1,079	21,025	1,267	22,292
ALACHUA	PACE	0604	17.41	129,846	120,075	1,625	121,700	1,907	123,607
ALACHUA	ALACHUA REGIONAL JUVENILE DETENTION CENTER	9029	3.53	33,006	23,348	669	24,017	786	24,803
		DISTRICT TOTAL	24.49	189,187	174,529	3,771	178,300	4,427	182,727
BAY	BAY REGIONAL JUVENILE DETENTION CENTER	0602	10.80	80,330	78,134	26,632	104,766	13,302	118,068
		DISTRICT TOTAL	10.80	80,330	78,134	26,632	104,766	13,302	118,068
BREVARD	BREVARD GROUP TREATMENT HOME	1002	5.43	40,662	3,478	3,850	7,328	1,277	8,605
BREVARD	OUTWARD BOUND	1020	-	-	-	-	-	-	-
BREVARD	BREVARD COUNTY JUVENILE DETENTION CENTER	1025	5.01	37,880	147,273	63,330	210,603	8,574	219,177
BREVARD	MELBOURNE CENTER FOR PERSONAL GROWTH	1027	4.63	34,776	32,238	906	33,144	952	34,096
		DISTRICT TOTAL	15.07	113,318	182,989	68,086	251,075	10,803	261,878
BROWARD	BROWARD DETENTION CENTER	6011	15.33	147,988	509,561	314,023	823,584	19,831	843,415
BROWARD	POMPAHO YOUTH TREATMENT CENTER	6016	.46	3,377	9,953	10,833	20,786	885	21,671
BROWARD	BROWARD YOUTH TREATMENT CENTER	6017	13.21	100,283	157,654	131,610	289,264	5,752	295,016
BROWARD	AMIKIDS OF GREATER FORT LAUDERDALE	6051	4.41	33,373	43,729	3,192	46,921	993	47,914
BROWARD	PACE CENTER FOR GIRLS, INC.	6091	18.03	136,801	134,283	2,626	136,909	814	137,723
		DISTRICT TOTAL	51.43	421,822	855,180	462,284	1,317,464	28,275	1,345,739
CITRUS	CYPRESS CREEK TREATMENT CENTER	8001	32.03	227,221	175,364	12,492	187,856	706	188,562
CITRUS	PACE CENTER FOR GIRLS	8003	10.59	75,460	76,227	35,659	111,886	725	112,611
		DISTRICT TOTAL	42.62	302,681	251,591	48,151	299,742	1,431	301,173
CLAY	PACE CENTER FOR GIRLS CLAY	0112	16.34	122,950	103,671	4,843	108,514	1,250	109,764
CLAY	AMIKIDS CLAY COUNTY	0113	14.03	105,416	96,825	1,981	98,806	1,008	99,814
		DISTRICT TOTAL	30.37	228,366	200,496	6,824	207,320	2,258	209,578
COLLIER	COLLIER JUVENILE DETENTION CENTER	9013	3.82	32,837	193,331	68,097	261,428	7,361	268,789
COLLIER	THE PACE PROGRAM	9017	8.25	65,198	153,474	9,272	162,746	2,394	165,140
		DISTRICT TOTAL	12.07	98,035	346,805	77,369	424,174	9,755	433,929
DADE	AMIKIDS MIAMI-DADE SOUTH	7804	7.68	59,891	72,457	25,887	98,344	2,135	100,479
DADE	AMIKIDS MIAMI-DADE NORTH	7805	3.88	30,284	39,600	12,489	52,089	1,030	53,119
DADE	MIAMI YOUTH ACADEMY	7811	8.59	66,058	247,815	98,478	346,293	8,124	354,417
DADE	PACE CENTER FOR GIRLS	8012	7.99	61,513	44,534	11,123	55,657	918	56,575
DADE	JUVENILE JUSTICE CENTER ALT ED	8141	20.14	156,300	797,768	851,876	1,649,644	28,794	1,678,438
		DISTRICT TOTAL	48.28	374,046	1,202,174	999,853	2,202,027	41,001	2,243,028
DUVAL	DUVAL ACADEMY	0411	9.08	68,358	103,966	33,706	137,672	9,537	147,209
DUVAL	IMPACT HALFWAY HOUSE	0431	6.63	49,682	187,637	31,623	219,260	12,317	231,577
DUVAL	DUVAL REGIONAL JUVENILE DETENTION CENTER	0491	20.15	158,934	270,509	88,626	359,135	25,052	384,187
DUVAL	PACE CENTER FOR GIRLS-JAX	0811	8.98	68,149	60,533	1,241	61,774	1,374	63,148
DUVAL	AMIKIDS JACKSONVILLE	1851	6.47	48,616	151,329	2,083	153,412	2,804	156,216
		DISTRICT TOTAL	51.31	393,739	773,974	157,279	931,253	51,084	982,337
ESCAMBIA	ESCAMBIA JUVENILE DETENTION	0916	12.01	89,208	137,082	9,524	146,606	7,816	154,422
ESCAMBIA	ESCAMBIA BOYS' BASE	0961	2.66	19,408	46,535	4,072	50,607	3,357	53,964
ESCAMBIA	PACE PROGRAM	2034	19.44	144,326	118,270	6,935	125,205	5,783	130,988
		DISTRICT TOTAL	34.11	252,942	301,887	20,531	322,418	16,956	339,374
HAMILTON	OAK GROVE ACADEMY	9009	6.58	45,949	52,602	807	53,409	3,688	57,097
		DISTRICT TOTAL	6.58	45,949	52,602	807	53,409	3,688	57,097
HERNANDO	PACE CENTER FOR GIRLS	0342	10.25	75,287	61,389	1,613	63,002	1,176	64,178
HERNANDO	CENTER FOR SUCCESS AND INDEPENDENCE BROOKSVILLE ACADEMY	8015	3.21	31,128	31,916	20,185	52,101	2,321	54,422
		DISTRICT TOTAL	13.46	106,415	93,305	21,798	115,103	3,497	118,600
HILLSBOROUGH	HILLSBOROUGH GIRLS ACADEMY	5042	4.60	34,679	173,303	37,349	210,652	11,580	222,232
HILLSBOROUGH	DETENTION CENTER, WEST	5044	18.18	195,643	396,372	180,344	576,716	27,168	603,884
HILLSBOROUGH	LES PETERS ACADEMY	5048	1.66	12,435	119,167	26,756	145,923	7,640	153,563
HILLSBOROUGH	AMI KIDS TAMPA	5051	7.99	67,599	208,617	10,615	219,232	6,672	225,904
HILLSBOROUGH	AMI KIDS YES	5052	4.42	33,174	180,919	33,920	214,839	8,080	222,919
HILLSBOROUGH	PACE CENTER FOR GIRLS	5054	8.55	64,613	61,928	11,733	73,661	728	74,389
HILLSBOROUGH	TAMPA RESIDENTIAL FACILITY	5056	14.21	106,189	339,765	105,004	444,769	24,596	469,365
HILLSBOROUGH	COLUMBUS RESIDENTIAL JUVENILE FACILITY	5062	20.30	152,555	360,727	74,179	434,906	24,867	459,773
HILLSBOROUGH	LAKE ACADEMY	5071	6.30	47,325	182,912	54,405	237,317	14,212	251,529
HILLSBOROUGH	LAKE ACADEMY SECURE	5109	-	-	-	-	-	-	-
		DISTRICT TOTAL	86.21	714,212	2,023,710	534,305	2,558,015	125,543	2,683,558
JACKSON	THE DOVE (DEVELOPING OPPORTUNITIES THRU VOC. ED.)	9020	9.28	64,352	5,794	94	5,888	406	6,294

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DISTRICT	SCHOOL NAME	COST CENTER	UWLTE	FEPP AND CATEGORICALS	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST
		DISTRICT TOTAL	9.28	64,352	5,794	94	5,888	406	6,294
LAKE	HOPE FOREST ACADEMY	9002	8.43	62,040	47,689	4,656	52,345	2,944	55,289
		DISTRICT TOTAL	8.43	62,040	47,689	4,656	52,345	2,944	55,289
LEE	PACE SCHOOL FOR GIRLS	0653	14.91	113,803	97,709	1,115	98,824	1,092	99,916
LEE	SOUTHWEST FLORIDA JUVENILE DETENTION CENTER	0661	8.60	79,540	96,714	75,599	172,313	6,654	178,967
		DISTRICT TOTAL	23.51	193,343	194,423	76,714	271,137	7,746	278,883
LEON	LEON CO JUVENILE DETENTION CENTER	1502	6.31	54,558	41,252	4,580	45,832	3,062	48,894
LEON	PACE CENTER FOR GIRLS	1503	17.00	128,648	108,452	2,005	110,457	1,346	111,803
		DISTRICT TOTAL	23.31	183,206	149,704	6,585	156,289	4,408	160,697
LIBERTY	LIBERTY WILDERNESS CROSSROADS	0051	7.71	57,054	52,222	1,463	53,685	4,476	58,161
LIBERTY	APALACHICOLA FOREST YOUTH ACADEMY	0053	27.71	265,102	257,899	3,162	261,061	9,668	270,729
		DISTRICT TOTAL	35.42	322,156	310,121	4,625	314,746	14,144	328,890
MADISON	JOANN BRIDGES ACADEMY	0925	2.62	18,870	19,300	1,096	20,396	3,290	23,686
		DISTRICT TOTAL	2.62	18,870	19,300	1,096	20,396	3,290	23,686
MANATEE	PACE CENTER FOR GIRLS	2004	10.65	80,026	66,746	1,274	68,020	592	68,612
MANATEE	JUVENILE DETENTION CENTER	2051	8.74	66,003	94,710	12,417	107,127	3,513	110,640
MANATEE	AMIKIDS MANATEE	2081	16.14	123,213	97,079	2,820	99,899	1,311	101,210
		DISTRICT TOTAL	35.53	269,242	258,535	16,511	275,046	5,416	280,462
MARION	MARION YOUTH ACADEMY	9721	5.29	38,617	88,825	43,530	132,355	6,866	139,221
MARION	MARION REG. JUVENILE DETENTION CENTER	9722	10.53	84,242	92,756	16,556	109,312	2,209	111,521
MARION	OCALA CENTER FOR SUCCESS AND INDEPENDENCE	9728	20.68	149,244	54,601	6,243	60,844	3,334	64,178
MARION	PACE CENTER FOR GIRLS, INC.	9734	9.54	69,535	73,214	1,287	74,501	1,244	75,745
		DISTRICT TOTAL	46.04	341,638	309,396	67,616	377,012	13,653	390,665
MONROE	MONROE JUVENILE DETENTION CENTER	0294	.50	3,928	30,409	-	30,409	989	31,398
		DISTRICT TOTAL	.50	3,928	30,409	-	30,409	989	31,398
OKALOOSA	CRESTVIEW YOUTH ACADEMY	9811	10.35	77,683	60,240	18,565	78,805	2,312	81,117
OKALOOSA	OKALOOSA YOUTH ACADEMY	9812	18.47	138,601	114,594	21,657	136,251	2,165	138,416
OKALOOSA	OKALOOSA REGIONAL DETENTION	9813	3.17	27,439	19,311	6,663	25,974	2,236	28,210
OKALOOSA	CRESTVIEW YOUTH ACADEMY (NON SECURE)	9821	12.45	93,146	108,572	5,718	114,290	3,605	117,895
		DISTRICT TOTAL	44.44	336,869	302,717	52,603	355,320	10,318	365,638
OKEECHOBEE	TANTIE	9103	38.39	285,111	285,150	2,312	287,462	2,705	290,167
		DISTRICT TOTAL	38.39	285,111	285,150	2,312	287,462	2,705	290,167
ORANGE	AMIKIDS ORLANDO	0101	5.47	41,524	35,637	2,348	37,985	860	38,845
ORANGE	JUVENILE DETENTION	1311	13.88	106,211	184,810	151,849	336,659	7,642	344,301
ORANGE	PACE CENTER FOR GIRLS	1691	3.57	27,199	22,029	963	22,992	352	23,344
ORANGE	ORANGE YOUTH ACADEMY	8009	24.78	187,308	214,224	150,645	364,869	9,266	374,135
		DISTRICT TOTAL	47.70	362,242	456,700	305,805	762,505	18,120	780,625
OSCEOLA	HERITAGE PARK ACADEMY	0859	29.32	217,705	253,163	127,182	380,345	16,973	397,318
		DISTRICT TOTAL	29.32	217,705	253,163	127,182	380,345	16,973	397,318
PALM BEACH	PALM BEACH REGIONAL DETENTION CENTER	3006	11.02	94,661	380,189	133,978	514,167	7,655	521,822
PALM BEACH	PACE CENTER FOR GIRLS	3010	13.86	109,285	131,983	1,170	133,153	650	133,803
PALM BEACH	PALM BEACH JUVENILE CORRECTIONAL FACILITY	3354	16.24	125,508	237,174	15,524	252,698	7,830	260,528
		DISTRICT TOTAL	41.12	329,454	749,346	150,672	900,018	16,135	916,153
PASCO	CENTRAL PASCO GIRLS ACADEMY	4081	2.98	22,094	76,642	4,548	81,190	1,296	82,486
PASCO	PACE CENTER FOR GIRLS	5242	16.23	121,417	119,469	14,760	134,229	637	134,866
PASCO	JUVENILE DETENTION CENTER	7081	6.28	46,996	111,409	32,064	143,473	4,452	147,925
		DISTRICT TOTAL	25.49	190,507	307,520	51,372	358,892	6,385	365,277
PINELLAS	STRIVE ACADEMY	8006	4.21	31,855	234,509	68,260	302,769	10,057	312,826
PINELLAS	CHARLES BRITT ACADEMY	8012	9.17	69,210	121,319	39,756	161,075	5,857	166,932
PINELLAS	PACE CENTER FOR GIRLS	8028	9.72	74,137	76,335	4,548	80,883	670	81,553
PINELLAS	PINELLAS JUVENILE DET CENTER	8031	17.08	129,134	223,494	74,901	298,395	11,035	309,430
		DISTRICT TOTAL	40.18	304,336	655,657	187,465	843,122	27,619	870,741
POLK	POLK HALFWAY HOUSE	9207	5.99	43,787	29,648	25,837	55,485	1,107	56,592
POLK	PACE CENTER FOR GIRLS	9225	9.09	66,879	62,471	1,284	63,755	292	64,047
POLK	POLK COUNTY SHERIFFS REGIONAL DETENTION CENTER	9236	8.72	64,435	107,946	70,192	178,138	2,622	180,760
POLK	ECKERD CONNECTS	9240	4.39	32,195	22,449	5,329	27,778	1,026	28,804

DJJ Annual Report 2021-22

FLORIDA DEPARTMENT OF EDUCATION
OFFICE OF FUNDING AND FINANCIAL REPORTING
2021-2022 LIST OF DJJ SITES - EXCEPTIONAL STUDENT EDUCATION

DISTRICT	SCHOOL NAME	COST CENTER	UWFTE	FEFP AND CATEGORICALS	DIRECT COSTS	SCHOOL INDIRECT COST	TOTAL SCHOOL COST	DISTRICT INDIRECT COST	TOTAL PROGRAM COST
		DISTRICT TOTAL	28.19	207,296	222,514	102,642	325,156	5,047	330,203
ST. JOHNS	DEEP CREEK YOUTH ACADEMY	0417	27.33	205,731	220,289	6,108	226,397	2,153	228,550
ST. JOHNS	ST JOHNS COUNTY JUVENILE RESIDENTIAL	0442	12.80	95,754	90,587	2,319	92,906	908	93,814
		DISTRICT TOTAL	40.13	301,485	310,876	8,427	319,303	3,061	322,364
ST. LUCIE	ST. LUCIE DETENTION CENTER	5001	17.22	129,923	230,462	107,699	338,161	7,724	345,885
ST. LUCIE	PACE CENTER FOR GIRLS, TREASURE COAST	5031	3.41	25,398	19,438	433	19,871	223	20,094
		DISTRICT TOTAL	20.63	155,321	249,900	108,132	358,032	7,947	365,979
VOLUSIA	AMIKIDS VOLUSIA	8031	2.86	23,028	22,894	1,798	24,692	1,521	26,213
VOLUSIA	VOLUSIA REGIONAL JUVENILE DETENTION CENTER	9801	23.20	172,277	169,132	166,847	335,979	18,631	354,610
VOLUSIA	PACE CENTER FOR GIRLS	9808	7.82	57,522	59,183	1,176	60,359	1,080	61,439
VOLUSIA	DAYTONA JUVENILE RESIDENTIAL FACILITY	9817	3.61	26,372	355,722	35,913	391,635	31,564	423,199
		DISTRICT TOTAL	37.49	279,199	606,931	205,734	812,665	52,796	865,461
WALTON	WALTON LEARNING CENTER	2021	11.29	83,867	193,662	2,289	195,951	3,319	199,270
		DISTRICT TOTAL	11.29	83,867	193,662	2,289	195,951	3,319	199,270
STATE TOTAL			1,015.81	7,833,209	12,456,883	3,910,222	16,367,105	535,441	16,902,546



2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Juvenile Justice

<u>BILL INFORMATION</u>	
BILL NUMBER:	
BILL TITLE:	Florida Scholars Academy
BILL SPONSOR:	
EFFECTIVE DATE:	

<u>COMMITTEES OF REFERENCE</u>
1)
2)
3)
4)
5)

<u>CURRENT COMMITTEE</u>
N/A

<u>SIMILAR BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?
Yes

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	February 9, 2023
LEAD AGENCY ANALYST:	Sam Kerce, Legislative Affairs Director
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	John Milla, General Counsel
FISCAL ANALYST:	Christian Griffin, Budget Chief

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The Florida Department of Juvenile Justice (DJJ) understands that providing each student with a world-class education is the most effective way Florida can prepare DJJ youth for long term future success. Educational services for youth in the juvenile justice system must be top tier programs to provide youth with their best hope for a productive future. DJJ will oversee the establishment of the Florida Scholars Academy (FSA) to create a single-uniform education system tasked with providing educational services for the youth served within commitment residential programs.

Based on new and emerging research, a study conducted by Florida State University indicates that a youth's commitment to education and the attainment of a post-secondary credential are the top two protective factors with evidence in reducing recidivism. Considering this strong evidence as outlined in the study, in coordination with aftercare services that support surrounding youth transitioning from residential programs with prosocial peers, the impacts that can be realized from this new innovative educational model would yield significant returns on investment for state and local communities.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section (s.) 1003.52, Florida Statutes (F.S.), designates the Florida Department of Education as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Additionally, s. 1003.52, F.S., stipulates that the "district school board of the county in which the juvenile justice education prevention, day treatment, residential, or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services." Currently, school districts directly provide nearly 60 percent of the educational services in residential programs, while contracting with private providers to serve the remaining sites and students.

Students within DJJ residential settings are arguably some of the most vulnerable students in the state and must be prioritized. Often, youth come into the DJJ system at different points in their educational career and the services they receive vary widely throughout the state due to the current decentralized framework. While students are in the care and custody of DJJ, providing educational services and instruction is the responsibility of the local school district where the facility is located. The current funding model can lead to underperforming services and achievement for these youth. For instance, due to the relatively small number of juveniles in a given facility that a district must supply, the Florida Education Finance Program funding generated during FTE counts for these programs rarely covers the actual cost of providing educational services and does not fully contemplate alternative educational opportunities for students beyond the traditional high school diploma pathway.

2. EFFECT OF THE BILL:

The bill creates the FSA within DJJ – a unified juvenile justice education system with a single purpose and vision across its residential programs to prioritize and enhance multiple educational pathways for future student success and to reduce recidivism. The FSA will be a unique educational entity as it will support multiple pathways to student success: (1) traditional high school diploma (2) high school equivalency diploma (GED) (3) enrollment in an educational program at a Florida state college/university or technical school (4) industry recognized credentials of value. DJJ will contract with an educational provider with a proven track record of success to operate, provide, or supplement full-time instruction and instructional support services and shall be responsible and accountable for the administration of all educational services

to students enrolled in the academy. A great deal of focus will be placed on assisting students to successfully complete their traditional high school or high school equivalency diploma, while placing a greater emphasis on ensuring students are provided with enhanced opportunities to begin a degree program at a Florida college or university, enroll in a Florida technical college, or obtain high-quality and industry-recognized credentials of value in high-demand occupations.

Section 1:

Amends s. 20.316, F.S., to require the secretary to oversee the establishment of the FSA.

Section 2:

- Creates s. 985.619, F.S., entitled the “Florida Scholars Academy,” and lays out legislative intent and the unique needs of this student population.
- Establishes the school specifically for youth served in a residential commitment program under chapter 985, F.S.
- Prohibits students sentenced to adult correctional facilities from attending the FSA.
- Provides that each program site established, authorized, or designated by the department shall be considered a campus of the FSA.
- Establishes that the mission of the FSA is to provide high-quality public education and to strive to provide students with greater access to secondary and postsecondary educational opportunities by emphasizing the following pathways: (1) high school diploma (2) high school equivalency diploma (3) enrollment in an educational program at a District Technical College, Florida college or university (4) industry recognized credential of value.
- Provides that the secretary shall approve the superintendent of the FSA who will be responsible for the management and day-to-day operation of the FSA.
- The bill creates a five-member board known as the FSA Board of Trustees. The board is comprised of the DJJ secretary (initial chair), the superintendent of the FSA, and 3 members appointed by the governor. Each board of trustee shall serve a 4-year term and be appointed by the governor. Their power and duties are to:
 - Meet at least 4 times a year, upon the call of the chair, or at the request of a majority of the membership.
 - Create the FSA’s development of a high-quality educational system.
 - Identify appropriate performance measures and standards based on student achievement for the school by the 2024-2025 school year.
 - Administer and maintain the educational programs.
 - Provide for the content and custody of student records.
 - Maintain the financial records and accounts under rules adopted by the State Board of Education for the uniform system of financial records and accounts for the schools of the state.
 - Adopt rules, policies and procedures related to governance, personnel, budget and finance, administration, curriculum, etc.
- Funding for the operational and instructional services for all students shall be provided through the General Appropriations Act.
- Clarifies that the secretary is solely responsible for preparing and submitting a legislative budget request on behalf of the FSA for operations and fixed capital outlay.
- Determines that the fiscal year will coincide with the state’s fiscal year.
- Requires the FSA to maintain a minimum general fund ending fund balance of 3 percent and outlines a process that must be undertaken if the ending fund balance is projected to fall below 2 percent.
- Prohibits the FSA from pledging the credit of the state on its behalf.
- Requires that the FSA have an annual financial audit of its accounts by an independent auditor who is a certified public accountant licensed under chapter 473.
- Students in the FSA must take all statewide assessments required pursuant to s. 1008.22, F.S.

- Provides the FSA board of trustees with rulemaking authority.

Section 3:

Amends s. 1000.04, F.S. to state that the FSA is a component of the public education system within Florida's Early Learning-20 education system.

Section 4:

Makes conforming changes to s. 1013.3, F.S., related to cooperative agreements that would no longer be required.

Section 5:

Provides for a recurring appropriation of \$12 million for year one startup costs.

Section 6:

Provides an effective date of July 1, 2023.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐

If yes, explain:	The newly established FSA Board of Trustees and DJJ are delegated rulemaking authority to implement the provisions of the bill.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	To be identified - 63, F.A.C.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☒ N ☐

If yes, provide a description:	An annual financial audit of the FSA's accounts and records are required to be conducted by an independent auditor who is a certified public accountant licensed under chapter 473, F.S.
Date Due:	The independent auditor shall submit the audit report to the board of trustees and the Auditor General no later than 9 months after the end of the preceding fiscal year.
Bill Section Number(s):	Section 2. Subsection (7).

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☒ N ☐

Board:	Florida Scholars Academy Board of Trustees
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Board Purpose:	<p>Responsible for the FSA's development of an education delivery system that is cost-effective, high-quality and educationally sound, and capable of sustaining an effective delivery system.</p> <p>Identify appropriate performance measures and standards based on student achievement that reflect the school's statutory mission and priorities and shall implement an accountability system for the school that includes assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access to career opportunities.</p>
Who Appoints:	The FSA shall be governed by a board of trustees comprised of five members that include the DJJ secretary (the initial chair), FSA superintendent, and 3 appointed by the governor to 4-year terms.
Changes:	N/A – new board
Bill Section Number(s):	Section 2. Subsection (4).

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

Revenues:	School districts would no longer be responsible for providing educational services within these residential programs and therefore would not pull down FEFP funding.
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☒ N ☐

Revenues:	N/A
Expenditures:	School districts would no longer receive such funding through the FEFP for these students. Rather, funding for the Florida Scholars Academy will be replaced with General Revenue funds that better meet the individual educational needs of students. Funding would be phased in over two years by the General Appropriations Act – non-FEFP General Revenue funding.

	<p>Year One: \$12 million recurring First year funding would be needed to set up the administrative side of the FSA, hire and train staff, and develop policies.</p> <p>Year Two: \$24.1 million recurring Second year funding would include \$12,100,000 in additional recurring funding to cover the costs of operating and providing education to the students. Once fully implemented, the Department anticipates the total 12 month operating costs of the Florida Scholars Academy to total \$24.1M</p>
Does the legislation contain a State Government appropriation?	Yes.
If yes, was this appropriated last year?	No.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	Indeterminate. The bill allows for the department to contract with an education service provider. This could include a private entity, such as a charter school network.
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT**1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?**Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	
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FEDERAL IMPACT**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?**Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.	Funding has been budgeted for personnel to ensure federal compliance.
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ADDITIONAL COMMENTS

Conforming changes to s. 1003.52, F.S., and any other applicable statutes, that remove references to school districts responsibility for providing educational services in DJJ residential commitment programs will likely be required prior to the 2024-2025 school year to reflect the changes of the bill.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:	
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Predicting Reoffending and Informing Treatment for Florida Residential Youth

FINAL PROJECT REPORT

June 30, 2020

Carter Hay
Brian Stults
Jennifer Copp
Brae Young
Emily Hargrove



THE FLORIDA STATE UNIVERSITY
COLLEGE OF CRIMINOLOGY & CRIMINAL JUSTICE

EXECUTIVE SUMMARY

This report describes analyses and results from this investigation of reoffending among youth released from residential placements. The goal of the project was to use risk assessment data provided by the Florida Department of Juvenile Justice (FDJJ) to identify key dynamic predictors of reoffending. The key question was this: Which protective factors help prevent reoffending among residential youth? Answering that question can inform decisions about which protective factors are the most fruitful targets for intervention.

With this Executive Summary, we describe the key features of our approach, the specific analyses that we conducted, major findings, and key implications of these results for treatment and intervention. Each of these issues is described in greater detail in subsequent sections of the report.

The key features of our approach

- Sample: We analyzed 10,396 cases that completed residential placements during fiscal years 2013-18.
- The measure of reoffending: Reoffending was defined in terms of adjudications, adjudications withheld, and convictions for any new violation of law that occurred within twelve months of completion; 45.7% of youth were reoffenders.
- Data source for measuring protective¹ factors: We assessed protective factors using data from the Residential Positive Achievement Change Tool (RPACT). (This tool has since been revised and renamed the Residential Assessment of Youth [RAY]).
- Specific measures of protective factors: We created multiple-item scales that captured key youth qualities related to such things as school commitment, attachment to prosocial peers, prosocial attitudes, and current social skills (among other things). Our scales correspond to different RPACT domains, so we often reference domain numbers (e.g., the School commitment scale comes from domain 3C). However, these scales generally did not make use of all RPACT items on these constructs—items were excluded when they detracted from the scale’s predictive power. (Appendix 1 provides all measures.)

¹ We measured all dynamic predictors such that high values on a variable should predict lower reoffending. Thus, we refer to these variables as “protective” factors (rather than “risk” factors).

- Considering change: All included cases had RPACT data available for both an Initial administration (near the point of admission) and an Exit administration (near the point of release).
- Categorizing protective factors in terms of the evidence: We categorized the protective factors as fitting into groups marked by ***strongest evidence***, ***strong evidence***, ***moderate evidence***, and ***no evidence***. These classifications derived from how well a significant effect of a protective factor was maintained across the analyses when statistically controlling for other static and dynamic predictors of reoffending.

The types of analyses we conducted

In trying to identify the protective factors that matter most, we looked at this with three different analyses:

- Exit analysis: This analysis examined predictors of reoffending using measures of protective factors from the Exit data, which captures staff's current assessments of youth on dynamic "malleable" qualities.
- Change analysis: This analysis explicitly examined the effects of improvement during the residential stay. Change was measured with *residual change scores*; high scorers were those whose Exit protective value on a variable was higher than expected given their Initial protective value on the same variable.
 - The extent of change: As part of the change analysis, we examined which types of youth were most likely to change and whether the improvements experienced in one realm of life (e.g., School commitment) tended to be correlated with improvements in other areas of life (e.g., Current social skills).
- Unexpected non-reoffenders analysis: This analysis used static/history variables such as prior offending to make predictions about which youth were predicted to reoffend. We then identified cases that were predicted to reoffend but **did not** reoffend. These cases represent *unexpected non-reoffenders*. We then used the residual change scores to identify which protective factors were significantly associated with being this kind of youth.

Key findings

In the *Analyses and Findings* section below, we fully describe the protective factors that emerged as most consequential in each individual analysis (Exit, Change, and

Unexpected non-reoffenders). However, in this Executive Summary, we emphasize the conclusions that emerge when drawing from the totality of analyses.

Finding 1: The three most impactful protective factors were Prosocial peers (6B), Employment-vocational commitment (5C), and School commitment (3C).

Prosocial peers and Employment-vocational commitment achieved *strongest* evidence in all three analyses (Change, Exit, and Unexpected non-reoffenders), whereas School commitment had *strongest* evidence in 2 of the 3 (with *strong* evidence in the 3rd).

Appendix 1 provides the complete measures for each of these variables, but briefly:

- Youth who were high on Prosocial peers were those rated inside the facility as associating with prosocial peers, admiring youth who were more prosocial, and resisting the influence of antisocial peers.
- Youth who were high on Employment-vocational commitment were rated as understanding what is needed to maintain a job, having strong employment aspirations and plans, and acquiring vocational and academic skills while in the facility.
- Youth who were high in School commitment see school as encouraging and believe in the value of an education, get good grades, behave well in school, and have a high likelihood of ultimately graduating.

Finding 2: Prosocial attitudes (10) and Current social skills (12 and 12A-E) were the next two most impactful protective factors.

Prosocial attitudes and Current social skills had at least *strong* evidence in all analyses and occasionally achieved *strongest* evidence.²

- Youth who were high in Prosocial attitudes exercised self-control, possessed empathy for others, and showed respect for the property of others, among other things.
- Youth who were high in Current social skills consistently used strong skills when it comes to such things as consequential thinking, goal-setting, problem-solving, and dealing with difficult situations.

² For Current social skills, this was true for both the shortened Domain 12 measure and a full measure that combined all items from the RPACT's Domains 12A-12E

Finding 3: Other protective factors showed much less promise in predicting reoffending.

Protective factors such as Avoiding aggression (11), Prosocial views of substances (8B), Prosocial use of time (4B), and Performance of supervised tasks (5D) had inconsistent or less pronounced effects on reoffending. For these variables, effects mostly were limited to bivariate effects, with only occasional multivariate effects.

On the other hand, Family support (7B) and Mental health (9B) generally had insignificant effects or significant effects in the wrong direction. We believe that this reflects a complicated relationship between these protective factors and reoffending. We return to this issue below when discussing treatment implications.

*****Key theme from Findings 1-3*****

The five protective factors found to be consistently impactful in predicting reoffending were:

1. Prosocial peers
2. Employment-vocational commitment
3. Academic commitment
4. Current social skills
5. Prosocial attitudes

Finding 4: Those who experienced higher than expected improvements on protective factors tended to do so across multiple protective factors.

We found that the residual change scores for the different protective factors often were highly correlated with one another. For example, improvement on School commitment (on the list of top-5 predictors noted above) was associated with improvements on Employment-vocational commitment, Prosocial peers, Current social skills, and Prosocial attitudes (with respective correlations of .36, .41, .37, and .31).

Finding 5: Those who experienced higher than expected improvements on protective factors were higher in age at release.

We examined whether several key static factors were associated with improvements on the protective factors. The analysis considered age, gender, race and ethnicity, and prior referrals for felonies and misdemeanors. Although several variables had significant correlations with improvement, the correlations were generally low ($< .10$). The exception was for age at release—its correlation of .19

points to a pattern of moderate intensity in which older youth experienced improvement to a greater degree.

Key theme from Findings 4-5

Protective factor improvement does not occur in isolated ways—improvement in one area often co-occurs with improvement in other areas. Also, improvement was more common among older youth. This suggests the key gains already being made with older youth. However, it also points to potential challenges involved with promoting improvement among younger youth.

Finding 6: The unexpected non-reoffender analysis indicated that roughly 18% of the sample fit into a group that was predicted to reoffend but did not reoffend.

The prediction to reoffend was based on static predictors. Thus, in a non-trivial portion of cases, youth will overcome a disadvantaged static history to unexpectedly avoid reoffending.

We found that variables such as age at release, gender, race and ethnicity, and prior offending were not very helpful in discriminating those who were predicted to reoffend and *did* reoffend from those who were predicted to reoffend and *did not* reoffend. However, as included in the summary above, various protective factors (especially Prosocial peers and Employment-vocational commitment) *were* helpful for discriminating between these two groups.

Key theme from Finding 6

Unexpected non-reoffenders represent nearly 1 out of every 5 youth, and improvements that occur on protective factors during the residential stay “foreshadow” that favorable outcome.

Treatment implications

With results indicating that Prosocial peers (6B), Employment-vocational commitment (5B), School commitment (3C), Current social skills (12 and 12A-E), and Prosocial attitudes (10) are the most consequential protective factors, one

broad implication is that further investment in interventions that promote improvement in these areas will be beneficial.

Beyond this, we see four specific treatment implications of these findings.

Treatment implication 1: Priority should be given to further investment in cognitive behavioral therapies (CBT) that are well suited for targeting this set of protective factors.

CBT already is widely used in juvenile facilities in Florida (FDJJ, 2017)³, and that use likely contributed to the observed improvement in protective factors. CBT has been found to significantly reduce reoffending (Landenberger & Lipsey, 2005) as part of its emphasis on training youth to reflect on impulsive cognitions and values and replace them with prosocial thoughts and actions.

A key benefit of CBT is its *generality*—it is relevant to a wide array of protective factors. It was explicitly designed to improve protective factors such as Current social skills and Prosocial attitudes, and improvements in those areas often are the catalyst for improvements in other realms of life, including school, employment-vocational efforts, and interactions with peers.

FDJJ is in the best position to assess the strengths and weaknesses of its CBT programming, but in general, giving further priority to CBT likely would involve:

- (1) expanded use of the most empirically supported variations of CBT, and
- (2) attention to improving the treatment quality of CBT programming. This could be done in correspondence with efforts to further implement FDJJ's Standardized Program Evaluation Protocol (SPEP).

Treatment implication 2: Priority should be given to further investment in the school, employment, and vocational services that youth receive in residential placements.

Many youth clearly have benefitted from the improvements experienced in these protective areas. Thus, enhanced investment could extend those gains to a greater number of youth. This, in turn, could lead to lower levels of reoffending.

This priority is consistent with prior research indicating that educational and labor market achievement are key contributors to desistance from crime (Blomberg, Bales, and Piquero, 2012; Sampson and Laub, 1993).

³ Common programs include Thinking for a Change (T4C) and Moral Reconation Therapy (MRT), and Promoting Alternative Thinking Strategies (PATHS).

Treatment implication 3: Priority should be given to understanding and attending to the peer dynamics inside of facilities. Those dynamics can discourage—or encourage—reoffending.

The finding that association with Prosocial peers is a key predictor of reoffending presents both challenges and opportunities for treatment.

With respect to challenges, it invokes a concern inherent to the use of residential confinement—namely, the concern that delinquent youth will be adversely affected by confinement with other delinquent youth.

However, the findings presented here point to the varied ways in which youth respond to confinement—some youth associate with *prosocial* peers during confinement, and they were less likely to later reoffend. Conversely, other youth associate with *antisocial* peers, and correspondingly, they were *more likely* to reoffend.

The key implication for treatment therefore resides in the need to encourage prosocial peer associations and mitigate the influence of antisocial peer associations. FDJJ should consider a thorough review of its CBT interventions that are directly focused on peer dynamics to identify good candidates for evaluation and perhaps expanded use. Moreover, FDJJ might consider examining whether different facilities are perhaps most in need of attention with respect to peer dynamics—the peer associations that emerge in a facility likely are influenced by the broader facility-level context related to healthy prosocial interactions between the youth and between the youth and staff.

Treatment implication 4: Priority should be given to better understanding the negligible effects of Family support (7B) and the implications this should have for family-focused interventions.

A number of protective factors were found to have minimal or no effect on reoffending. This most notably included Family support (7B) and Mental health (9B).

As we later discuss in more detail, this is understandable with respect to mental health—its association with externalizing criminal behavior is complicated. Moreover, it is understood that RPACT items on mental health likely impart valuable treatment information even if they do not (on average) predict reoffending.

But in the case of a central risk and protective area such as the family, the inability to predict reoffending is surprising, and efforts to better understand what is occurring seem merited. Attention to this issue likely should focus on understanding

(1) if there are aspects of family involvement during the residential stay that are *undermining* protective factors and (2) if FDJJ is satisfied with the effectiveness and delivery of its family-focused interventions.

Conclusion to the executive summary

This project has revealed key findings regarding the protective factors that are most consequential for reoffending, with the most impressive evidence emerging for protective factors related to peer associations inside the facility, school, employment and vocational training, and prosocial skills and attitudes.

These findings shed light on key priorities for treatment in reference to both those consequential protective factors and other protective areas, such as the family, that did not predict reoffending.

One key point bears emphasis, however—this relates to the idea of “aftercare,” including the risk assessment data that might be collected during a post-release aftercare period.

By necessity (in response to the practical and financial obstacles to collecting risk assessment data in the post-release period), FDJJ’s current investigations of protective factors are based on assessments occurring during the residential placement. And yet, key protective areas almost certainly are marked by substantial change that occurs *after* the period of release. Indeed, much research shows that reentry from a residential placement can involve major disruptions and complications with respect to education, interpersonal relationships, social support, and substance use (Calleja, 2019; Panuccio et al., 2012; Ramchand et al., 2009).

Thus, examining protective factor improvements during the residential stay provides a useful but incomplete understanding of the link between protective factors and reoffending. This points to the need to better understand how protective factor improvements that begin during residential placements are maintained—or not maintained—in the period after release. Gaining insight on post-release circumstances of youth could shape FDJJ’s understanding of the consequentiality of different protective factors and how best to reinforce protective factor improvements that first materialize during the residential stay.

ANALYSES AND FINDINGS

This section provides methodological and analytical details associated with the Exit, Change, and Unexpected Non-reoffender analyses. Also, we describe the findings in greater detail, including tables for the empirical results and appendices. This section

will be especially useful for those wishing further detail on the key decisions in these areas.

First, however, the characteristics of our sample and the measure of reoffending can be emphasized because these study features are common to all analyses.

The final analytic sample included 10,396 cases that completed residential placements from July 1, 2013-June 30, 2018. All included cases had RPACT data available for both an Initial and Exit administration as well as reoffending data. We limited our sample to cases in which Initial RPACTs were administered within 30 days of admission and Exit RPACTs were administered within 30 days of release (or in some instances, a short period after release).

The sample possessed the characteristics that are common in populations of residentially-confined youth—the sample was overwhelmingly male, had disproportionate representation of black and Hispanic youth, and had an average age at the time of release of 16.7 years old.

Characteristics of the sample

- **Gender:** 87% male, 13% female
- **Race-ethnicity:** 60% black, 29% white, 11% non-Hispanic white, <1% other
- **Average age at release:** 16.7 years old

Also, reoffending was defined in terms of adjudications, adjudications withheld, and convictions for any new violation of law that occurred within twelve months of completion; 45.7% of youth were reoffenders. Reoffending data were provided by FDJJ.

The Exit analysis

The RPACT (and its successor, the Residential Assessment of Youth, or the RAY) contains an extensive set of “dynamic” or “current” items that ask staff to assess current qualities and behavioral tendencies of youth. Thus, when the Exit RPACT data are examined, they provide a snapshot of how youth fare on malleable qualities that can change over time. Our analysis therefore began by establishing the extent to which these Exit data could be used to predict reoffending.

Creating RPACT variables. Because the RPACT includes hundreds of dynamic items, numerous approaches can be used to identify its most important predictors

of reoffending. For example, items can be looked at individually or the items within a domain can be aggregated into domain scores.

We found that the best approach (i.e., the one that produced that strongest prediction of reoffending) involved creating multiple-item scales that drew from the different domains without necessarily including all items from a domain (because some items are more predictive than others). Multiple-item scales have the additional advantage of avoiding problems that occur when individual items within a domain are highly associated with one another. In such cases, even strong predictors of re-offending can appear as inconsequential. We ultimately assessed multiple versions of scales, excluding items that detracted from the scale's predictive power in order to produce the strongest scales possible.⁴

Appendix 1 provides relevant information for these scales. For each scale, it identifies:

- the conceptual area (e.g., "School commitment")
- the relevant RPACT domain (e.g., Domain 3C)
- the specific items that were included
- the scale's Cronbach's alpha (which indicates the extent to which the items in the scale were highly correlated with one another, with alpha levels > .70 being preferred).

Incorporating control variables. Identifying the RPACT scales that predict reoffending necessarily raises the question of what control variables should be included in the model. On one extreme, the scales could be examined purely in terms of bivariate relationships (with no controls). The problem with that approach is that bivariate "effects" may emerge simply because a scale is correlated with other variables (e.g., prior offending history) that are the real causes of reoffending. Thus, this approach may be too lenient when assessing a scale's effects. On the other extreme, a model may control for the *entirety* of relevant static and dynamic predictors for which data are available. The problem with this approach is that it is arguably too strict. The RPACT collects data on an extensive list of important risk factors and they are highly correlated with one another—being high in risk on one variable often co-occurs with being high in risk on many other variables. As noted above, when many variables that are highly intercorrelated are used as predictors in the same model, there are limits on any single variable's ability to have significant *independent* effects, especially for those variables that are more correlated than others with the other variables in the model. Unfortunately, criminologists have not

⁴ This tended to occur for items that either (a) relate to a quality or concept that is unlikely (based on prior research) to predict reoffending or (b) possess a set of response categories that undermine the ability of that item to place youth along a continuum that clearly runs from low to high risk. We are happy to provide more information on these items. While these items are not necessarily helpful for predicting reoffending, we understand that they may be helpful for various aspects of treatment.

arrived at definitive answers on how to handle these issues, and this helps explain why the approach to control variables often varies significantly across studies within the same area of research.

Our approach to addressing this issue was to examine the effects of scales with multiple models that employed varying degrees of “strictness” regarding the set of static and dynamic statistical controls that were included. We then organized the variables into four different groups according to the evidence on their predictive power:

- **Strongest evidence:** These variables had effects that stood out from the other variables in advancing from the least stringent to most stringent models tested. This always involved significant multivariate effects, with strongest evidence sometimes involving effects that persisted when controlling for all other static and dynamic predictors of offending.
- **Strong evidence:** These variables had significant bivariate effects on reoffending (effects when no other controls were included) but also had significant multivariate effects on offending when statistically controlling for either static or dynamic predictors.
- **Moderate evidence:** These variables had significant bivariate effects on offending.
- **No evidence:** These variables had no consistent effects on reoffending at the bivariate level (with no controls included).

Finally, there is the question of which static variables to control. (The question of which dynamic variables to control for was straightforward—we used the dynamic scales described earlier and shown in Appendix 1). To identify the relevant static predictors, we used a model building process in which age at release, gender, and every RPACT static variable were given a chance to be retained in a multivariate logistic regression model to predict reoffending. An iterative process was used to remove on a one-by-one basis the least predictive variable until the only remaining variables in the model were those that contributed to predictive accuracy. The final model included 14 static variables (or variables sets), with this including such variables as age at release, gender, misdemeanor referrals, and felony referrals. The full list of static controls is included in Appendix 2—whenever static variables are controlled, it was this full set of variables.

Findings. Each protective scale was assessed in four different types of models: (1) a bivariate model, (2) a model that controlled for all other protective scales, (3) a model that controlled for all static variables, and (4) a model that controlled for all protective and static variables.

Results from these models are shown in Table 1. These results support the following classifications:

- **Strongest evidence:** Prosocial peers (6B), Employment-vocational commitment (5C), and School commitment (3C). These three variables were the only ones to have significant multivariate effects in either the models that controlled for all protective scales and static variables or the models that controlled for all protective scales. Prosocial peers and Employment-vocational commitment had significant effects in the strictest model that included all static and dynamic predictors.
- **Strong evidence:** Prosocial attitudes (10), Current social skills (both 12 and 12A-E), Prosocial use of time (4B), and Performance of supervised tasks (5D). All four variables had significant bivariate effects and significant multivariate effects when only the static variables were controlled.
- **Moderate evidence:** Prosocial views on substances (8B) and Avoiding aggression (11). Both variables had significant bivariate effects but no significant multivariate effects.
- **No evidence:** Not shown in Table 1 are the variables for Family support (7B) and Mental Health (9B)—neither variable had significant effects in the predicted direction.

Conclusion. The Exit analysis revealed that many variables help predict reoffending but the strongest evidence emerged for Prosocial peers, Employment-vocational commitment, and School commitment.

Change Analysis

Our next step was to consider whether reoffending was affected not simply by one's protective *level* but by the extent of *change* that is experienced during the residential stay. Central to this is the idea that improvement during the residential stay may “foreshadow” desistance—youth who improve on protective factors are showing an interest in pursuing a prosocial trajectory moving forward, perhaps in response to evidence-based interventions received during the residential stay.

Measuring change. There are multiple ways of assessing improvement on protective factors. On a basic level, improvement involves scoring higher on a protective variable in the Exit RPACT administration than what was observed for the same protective variable in the Initial RPACT administration.

However, most youth experience improvement (at least to some degree) on the different protective variables in the RPACT, and the extent of improvement is heavily influenced by the Initial value of a protective variable—youth with really low protective scores on the Initial RPACT have a much greater ability to improve (given the low point on the scale from which they began). Likewise, youth with the highest initial score on a variable are unable to demonstrate any further improvement.

Thus, to account for the way in which change is conflated with the Initial protective value, our analyses measured improvement by computing a *residual change score*. (This was done for the exact same protective scales that were examined in the Exit analysis.) The residual change score is useful because it takes into account this known association between the Initial value on a protective variable and how much improvement can be experienced.⁵ Substantively, residual change scores can be interpreted in this way: High scorers are those who had a higher Exit protective value on a variable than we would have expected based on knowing their Initial protective value. Simply stated, these are not just youth who improved—they improved more than we would have predicted them to do so.

Findings. Each protective scale was assessed in the exact same types of models used in the Exit analysis: (1) a bivariate model, (2) a model that controlled for all other protective scales, (3) a model that controlled for all static variables, and (4) a model that controlled for all protective and static variables. The only difference is that each protective factor was measured in terms of its residual change score (for Initial to Exit improvement) rather than with its Exit value.

Results from these models are shown in Table 1. These results support the following classifications:

- **Strongest evidence:** Prosocial peers (6B), Employment-vocational commitment (5C), School commitment (3C), and Current social skills (12). These four variables were the only ones to have significant multivariate effects in either the models that controlled for all protective scales and static variables or the models that controlled for all protective scales. Prosocial peers was the only variable to have significant effects in the strictest model that included all static and dynamic predictors.
- **Strong evidence:** Prosocial use of time (4B), Prosocial attitudes (10), Avoiding aggression (11), and Current social skills (12A-E). All four variables had significant bivariate effects and significant multivariate effects when only the static variables were controlled.
- **Moderate evidence:** Prosocial views on substances (8B). This variable had a significant bivariate effect but no significant multivariate effects.
- **No evidence:** Not shown in Table 1 are the variables for Supervised tasks (5D), Family support (6B), and Mental Health (9B)—these variables did not have any significant effects in the predicted direction.

⁵ To compute residual change scores for a protective variable, Exit scores are regressed on Initial scores, and this generates expected values for each youth on the Exit score. The residual change scores are the difference between the observed and expected values for the Exit score.

In addition to considering these models, we also examined how the residual change scores were correlated with other variables. Two findings emerged.

First, we found that the residual change scores for the different protective factors were often highly correlated with one another. For example, improvement on School commitment (3C) had correlations of .36, .41, .37, and .31 with improvements on Employment-vocational commitment, Prosocial peers, Current social skills (12), and Prosocial attitudes. (These correlations are shown in Table 4.)

Second, we found that age at release was significantly and positively correlated ($r = .19$) with a measure of aggregate improvement, which averaged the residual change scores with significant bivariate effects on reoffending. We found several other variables (including being male, being white, and having fewer misdemeanor referrals) to be significantly correlated with this measure of improvement, but these correlations were generally low ($r = .08$ or below).

Conclusion. The Change analysis revealed that many residual change scores helped predict reoffending but the strongest evidence emerged for Prosocial peers (6B), Employment-vocational commitment (5B), School commitment (3C), and Current social skills (12).

Moreover, we found that youth who experienced improvement on one protective factor often experienced improvement on other protective factors. As we discuss below, this has treatment implications—it suggests that effective interventions often need not be specific to a single protective area.

Unexpected non-reoffender analysis

Our final analysis considered the informative occurrence of cases that did not reoffend when they were predicted to do so. These *unexpected non-reoffenders* raise the question of what protective factors are most impactful for explaining their occurrence.

For this analysis, we used the set of static variables described above (and listed in Appendix 2) to make predictions about who should reoffend. Those are the static variables that emerged as significant predictors in our model-building exercise (producing an area under the curve [AUC] coefficient $> .68$). We then took the following steps:

- The coefficients for the static variables were used to assign each youth a predicted probability of reoffending.
- Because 45.7% of the sample reoffended, all cases in the top 45.7% in predicted probability of offending were coded as *predicted to reoffend*. All others were coded as *not predicted to reoffend*.

- Cases were then coded into four different groups based on their predicted and actual reoffending:
 1. Not predicted to reoffend and did reoffend
 2. Not predicted to reoffend and did not reoffend
 3. Predicted to reoffend and did reoffend
 4. Predicted to reoffend and did not reoffend (unexpected non-reoffender)
- We then estimated multinomial logistic regression equations that took the protective scales as predictors and group membership as the outcomes. Protective factors were measured with their residual change scores.
- Each protective factor was evaluated with two equations: for the first, it was entered by itself as a predictor, while for the second, all protective scales were entered together (thus assessing the effect of each one while controlling for all of the others).
- Our interest was in identifying protective factors that predicted membership in Group 3 instead of Group 4. Using this approach, significant negative coefficients indicate that higher than expected improvement in a protective factor increased the chance of being in the unexpected non-reoffender group (which was treated as the reference group for these equations).

Table 3 provides the results for this analysis, with the protective factors fitting into these categories based on the strength of the evidence:

- **Strongest evidence:** Prosocial peers (6B), Employment-vocational commitment (5C). These two variables significantly increased the chances of being an unexpected non-reoffender in a model that controlled for all other protective factors.
- **Strong evidence:** School commitment (3C), Prosocial attitudes (10), Avoiding aggression (11), Current social skills (12), and Current social skills (12A-E). All five variables had significant multivariate effects, given that the group membership outcomes accounted for effects of static variables.
- **Moderate evidence:** [None—because the group membership outcomes accounted for the effects of static variables, no model tested for truly bivariate effects.]
- **No evidence:** Not shown in Table 1 are the variables for Prosocial use of time (4B), Supervised tasks (5D), Family support (7B), Prosocial views on substances (8B), and Mental Health (9B)—these variables did not have any significant effects in the predicted direction.

In addition to estimating these models, we considered whether being an unexpected non-reoffender might be more common among some groups of youth than others. We considered differences between groups 3 and 4 on age at release, gender, race and ethnicity, and the number of misdemeanor and felony referrals. We found minimal differences. For example, the two groups differed in age by just three months; similarly, the percentage who had committed 3 or more felonies was 65% for one group and 67% for the other. Thus, with respect to prior offending and demographic variables, youth who were predicted to reoffend and *did* reoffend

were fundamentally similar to youth were predicted to reoffend and *did not* reoffend. The key differences between the two groups therefore involve divergences on the protective factors described above.

Conclusion. This analysis revealed that many protective variables help predict that a case will become an unexpected non-reoffender. However, the strongest evidence emerged for Prosocial peers (6B) and Employment-vocational commitment (5B). Moreover, we found that the odds of being an unexpected non-reoffender did not vary across demographic and prior offending subgroups in substantively important ways.

TREATMENT IMPLICATIONS

The analyses above reveal a number of protective factors that helped reduce reoffending. This was especially the case for Prosocial peers, Employment-vocational commitment, Academic commitment, Current social skills, and Prosocial attitudes. Thus, one overarching treatment implication from this research is that further investment in interventions that promote improvement in these areas should be beneficial. Beyond that overarching implication, we see four more specific treatment implications that should be considered.

Treatment implication 1: Priority should be given to further investment in cognitive behavioral therapies (CBT) that are well suited for targeting this set of protective factors.

The defining feature of CBT is its emphasis on training youth to consciously reflect on the thoughts, emotions, and habits that have created problems in high risk situations in the past. CBT programs seek to replace those impulsive cognitions and values with prosocial thoughts and actions.

It is recognized that CBT already is commonly used in juvenile facilities in Florida, with it coming in the form of programs such as *Thinking for a change* and *Moral reconation therapy*. Indeed, programs such as these are almost certainly responsible for some of the improvements in protective factors that we observed.

That said, it may be quite fruitful for FDJJ to consider further investment in CBT, with that investment perhaps involving (1) expanded use of the most empirically supported variations of CBT and (2) attention to monitoring and improving the treatment quality of CBT programming. The latter could be done in close correspondence with efforts to further implement the use of FDJJ's Standardized Program Evaluation Protocol (SPEP) initiative.

These efforts should be beneficial in part because meta-analyses have found that well-implemented CBT significantly reduces reoffending arguably more than any other broad class of treatment (Landenberger & Lipsey, 2005).

Moreover, a key benefit of CBT is its *generality*—it is designed to affect many protective and risk areas rather than just specific ones. In reference to the ranking above, CBT is of direct relevance to Current social skills and Prosocial attitudes (CBT interventions were developed with protective factors such as these in mind), but it also is quite relevant to *other* protective factors because the skills and habits that it encourages become tools to promote success in other realms of life, including school, employment-vocational efforts, and in interactions with peers.

This pattern is of special relevance given the finding described above in which youth who experience improvements in one protective area tend to experience improvements in other protective areas. This suggests that interventions need not be specific to one protective area—well-implemented CBT programs have the ability to simultaneously address needs in *many* protective areas.

Treatment implication 2: Priority should be given to further investment in the school, employment, and vocational services that youth receive in residential placements.

Many youth clearly have benefitted from the improvements experienced in these areas during the residential stay. Thus, enhanced investment could extend those gains to a greater number of youth. This, in turn, could lead to lower levels of reoffending.

This priority is consistent with prior research indicating that educational and labor market achievement are key contributors to desistance from crime (Blomberg, Bales, and Piquero, 2012; Sampson and Laub, 1993). Importantly, high quality programming in the areas of education, employment, and vocational services may reduce reoffending not because released youth immediately step into successful employment, but instead, because it may increase youth social bonds to conventional social institutions and goals (Sampson and Laub, 1993).

Once again, FDJJ is in a good position to know where the strengths and weaknesses exist in its educational, employment, and vocational programming, but further investment in this programming could involve investigations of (1) the extent to which evidence-based interventions are being used and (2) the quality with which those interventions are being delivered.

Treatment implication 3: Priority should be given to understanding and attending to the peer dynamics taking place inside of facilities. Those dynamics can discourage—or encourage—reoffending.

The finding that association with Prosocial peers is a key predictor of reoffending presents both challenges and opportunities for treatment.

With respect to challenges, it invokes a concern that is inherent to the use of residential confinement—namely, the concern that delinquent youth will be adversely affected by confinement with other delinquent youth. This concern is sometimes framed in terms of the idea that confinement with other delinquent youth can “facilitate the accumulation of ‘criminal capital’ and...encourage offending by serving as a school of crime” (Nguyen, Loughran, Paternoster, Fagan, and Piquero, 2017:207).

However, the findings presented here clearly point to the varied ways in which youth respond to confinement. The analysis found that some youth associate with *prosocial* peers during confinement; those who did so were less likely to later reoffend. Conversely, other youth associate with *antisocial* peers; they were, in turn, more likely to reoffend.

With an eye toward treatment, the opportunity for effective intervention therefore resides in the possibility of encouraging prosocial peer associations and mitigating the influence of antisocial peers. Comprehensive CBT interventions likely can be effective for this purpose, but FDJJ also may find it useful to consider peer-specific CBT interventions to identify good candidates for evaluation and perhaps expanded use.

Moreover, FDJJ might consider examining whether different facilities are perhaps most in need of attention with respect to peer dynamics—the peer associations that emerge in a facility likely are influenced by the broader facility-level context related to healthy prosocial interactions between the youth and between the youth and staff. Assessing these contextual issues may give insight into the specific needs of specific facilities regarding the goal of promoting prosocial peer associations.

Treatment implication 4: Priority should be given to better understanding the negligible effects of Family support (7B) and the implications this should have for family-focused interventions.

A number of protective factors were found to have minimal or no effect on reoffending. This most notably included Family support (7B) and Mental health (9B).

This is perhaps understandable with respect to mental health—its association with externalizing criminal behavior is complicated. Prior research shows that such things as depression may *decrease* criminal reoffending while *increasing* internalizing forms of antisociality that often are not detected by the legal system (e.g., self-harm, suicidal ideation). Moreover, it is understood that RPACT items on

mental health likely impart valuable treatment information even if they do not (on average) predict reoffending.

But in the case of a central risk and protective area such as the family, the inability to predict reoffending is surprising, and efforts to better understand what is occurring seem merited. Attention to this issue likely should focus on understanding (1) if there are aspects of youth involvement and interaction with family during the residential stay that *undermine* protective factors and (2) if FDJJ is satisfied with the effectiveness and delivery of its family-focused interventions.

Central to this treatment imperative is the recognition that youth in residential placements come from a wide variety of families that vary in terms of risks and resources. Determining the best approach to treatment and how that approach may vary across families is a daunting but ultimately important task.

CONCLUSION

This project has revealed key findings regarding the protective factors that are most consequential for reoffending, with the most impressive evidence emerging for protective factors related to peer associations inside the facility, school, employment and vocational training, and prosocial skills and attitudes.

Our confidence in these results is bolstered by the consistent patterns that emerged across different analyses—we scrutinized the protective factors in a variety of different ways that generally all identified the same protective factors as most consequential.

We therefore see these findings as a solid foundation from which to formulate treatment implications, and we sought to assist in that effort by describing the implications that we see as most pressing.

In concluding, we wish to dwell on a key caveat that must be offered, and we discuss it with recognition that there are no easy solutions. It relates to a limitation of this analysis that is easily overlooked. Specifically, it must be emphasized that our analysis is based purely on protective factor data *from the period of confinement*; thus, we know nothing about any changes in protective factors that occurred during the post-release period (the period in which reoffending did—or did not—occur).

There are many practical and financial obstacles to collecting post-release data; those obstacle help explain why such data are rarely available in studies of reentry for either juveniles or adults. That said, key protective areas almost certainly are marked by substantial change that occurs *after* the period of release. Indeed, much research shows that reentry from a residential placement can involve major disruptions and complications with respect to education, interpersonal

relationships, social support, and substance use (Calleja, 2019; Panuccio et al., 2012; Ramchand et al., 2009).

Thus, examining protective factor improvements during the residential stay provides a useful but incomplete understanding of the link between protective factors and reoffending. Specifically, for protective factors that predict reoffending only modestly or not at all, this could reflect either of two distinctly different possibilities: (1) that protective factor may be *inconsequential* for reoffending or (2) that protective factor may be *consequential* for reoffending but improvements on it dissipate quickly during the period of release.

This points to the need to better understand how protective factor improvements that begin during residential placements are maintained—or not maintained—in the period after release. Gaining insight on the circumstances of youth during the post-release period could shape FDJJ’s understanding of the consequentiality of different protective factors and how best to reinforce protective factor improvements that first materialized during the residential stay.

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Table 1: Exit analysis results**Odds ratios for protective factors predicting reoffending**

Exit protective factor*	No static controls		With static controls**			
	Bivariate effects		All protective indexes together	Each index entered separately		All protective indexes together
School commitment (3C)	0.818 ***		0.895 **	0.899 ***		0.972
Prosocial use of time (4B)	0.893 ***			0.931 **		0.997
Employment-vocational commitment (5B)	0.785 ***		0.827 ***	0.888 ***		0.931 *
Supervised tasks (5D)	0.904 ***		1.002	0.945 *		1.011
Prosocial peer association (6B)	0.831 ***		0.871 ***	0.886 ***		0.914 *
Prosocial views on substances (8B)	0.926 **			0.949		0.991
Prosocial attitudes (10)	0.864 ***		1.047	0.899 ***		0.987
Avoiding aggression (11)	0.909 ***		1.024	0.951		1.056
Current social skills (12)	0.867 ***		1.000	0.894 ***		0.944
Current skills (aggregate) (12A-E)	0.906 ***		1.018	0.925 **		0.994

* Results are excluded for protective factors that did not have any significant effects in the predicted direction. This includes Family support (7B) and Mental health (9B).

** Static controls were selected on the basis of an iterative model building process that gave all RPACT variables a chance to be retained as significant predictors of reoffending. The final model retained these static/history variables that were used to control for static risk: Age at release, gender, misdemeanor referrals, felony referrals, commitment orders, pick-up orders, special education status, history of expulsions, age at first expulsion, history of problem school behavior, history of antisocial friends, history of running away or being kicked out of home, history of drug use, and history of ADHD.

Table 2: Change analysis results

Odds ratios for residual change scores predicting reoffending

Residual change score [#]	No static controls		With static controls ^{##}			
	Bivariate effects	All protective indexes together	Each index entered separately		All protective indexes together	
School commitment (3C)	0.503 **	0.655 **	0.783 **		0.945	
Prosocial use of time (4B)	0.790 **	1.188	0.861 *		1.038	
Employment-vocational commitment (5B)	0.663 **	0.753 **	0.859 *		0.914	
Prosocial peer association (6B)	0.497 **	0.590 **	0.642 **		0.672 **	
Prosocial views on substances (8B)	0.801 **	0.936	0.872		0.947	
Prosocial attitudes (10)	0.576 **	0.933	0.746 **		1.044	
Avoiding aggression (11)	0.705 **	0.965	0.782 **		0.905	
Current social skills (12)	0.709 **	1.363 **	0.775 *		1.026	
Current skills (aggregate) (12A-E)	0.509 **	0.880	0.685 **		0.862	

Results are excluded for protective factors that did not have any significant effects in the predicted direction. This includes Supervised tasks (5D), Family support (7B), and Mental health (9B).

Static controls were selected on the basis of an iterative model building process that gave all RPACT variables a chance to be retained as significant predictors of reoffending. The final model retained these static/history variables that were used to control for static risk: Age at release, gender, misdemeanor referrals, felony referrals, commitment orders, pick-up orders, special education status, history of expulsions, age at first expulsion, history of problem school behavior, history of antisocial friends, history of running away or being kicked out of home, history of drug use, and history of ADHD.

Table 3: Unexpected non-reoffender results

Multinomial logistic coefficients for being in the “predicted to reoffend and does reoffend” group vs. being in the unexpected non-reoffender group

Residual change score [#]	Each Index Entered Separately		All indexes together ^{##}	
School commitment (3C)	-0.333	**	-0.202	
Employment-vocational commitment (5B)	-0.243	**	-0.196	*
Prosocial peer association (6B)	-0.424	***	-0.351	*
Prosocial attitudes (10)	-0.377	**	-0.074	
Avoiding aggression (11)	-0.268	*	-0.074	
Current social skills (12)	-0.373	**	0.012	
Current skills (aggregate) (12A-E)	-0.401	*	-0.092	

Results are excluded for protective factors that did not have significant effects in the predicted direction. This includes Prosocial use of time (4B), Supervised tasks (5D), Family support (7B), Prosocial views on substances (8B), and Mental health (9B).

No static controls were included in either model because youth values on the static variables were used in making reoffending predictions for the purpose of placing youth into the Unexpected non-reoffender group, which is contrasted here with the group of youth who were predicted to reoffend and **did** reoffend.

Table 4: Correlations between residual change scores

	1	2	3	4	5	6	7	8	9	10	11	12
1 School commitment (3C)	1.0000											
2 Employ-vocational (5B)	0.3624*	1.0000										
3 Prosocial use of time (4B)	0.4218*	0.2651*	1.0000									
4 Supervised tasks (5D)	0.3100*	0.2306*	0.3613*	1.0000								
5 Prosocial peers (6B)	0.4096*	0.2310*	0.3853*	0.2489*	1.0000							
6 Family support (7B)	0.1488*	0.1220*	0.1842*	0.1257*	0.1528*	1.0000						
7 Prosocial-substances (8B)	0.2330*	0.0657*	0.1991*	0.1000*	0.2174*	0.0990*	1.0000					
8 Mental health (9B)	0.0921*	0.0475*	0.1216*	0.1360*	0.0975*	0.1207*	0.0662*	1.0000				
9 Prosocial attitudes (10)	0.4745*	0.3118*	0.3850*	0.3055*	0.5906*	0.2116*	0.1897*	0.1998*	1.0000			
10 Avoiding aggression (11)	0.3460*	0.1884*	0.3009*	0.2563*	0.4527*	0.1689*	0.1732*	0.2172*	0.6404*	1.0000		
11 Current social skills (12)	0.3689*	0.2889*	0.2799*	0.2471*	0.4471*	0.1512*	0.1035*	0.1504*	0.6300*	0.5045*	1.0000	
12 Current skills (12A-E)	0.3853*	0.2669*	0.3953*	0.2942*	0.3696*	0.1481*	0.1356*	0.1276*	0.4470*	0.3480*	0.4403*	1.0000

APPENDIX 1: RPACT scales and their items

School commitment and performance (from Domain 3C, alpha = .7632)

- D3CQ1 believing in the value of getting an education
- D3CQ2 seeing the school environment as encouraging
- D3CQ4 behaving well in school
- D3CQ6 getting high grades
- D3CQ7 having a high likelihood of ultimately graduating

Prosocial use of time (from Domain 4B, alpha = .7198)

- D4BQ1 has a positive attitude in structured activities
- D4BQ2 at least 1 positive non-structured activity in addition to school
- D4BQ3 positive and prosocial use of unstructured time

Employment-vocational commitment (from Domain 5B, alpha = .6518)

- D5BQ1 understands what is required to maintain job
- D5BQ2 employment aspirations
- D5BQ3 employment plans
- D5BQ4 acquired academic/vocational skills

Performance of program supervised tasks (from Domain 5D, alpha = .7575)

- D5DQ2 good behavior on tasks
- D5DQ3 good performance on tasks
- D5DQ4 shows prosocial leadership

Prosocial peer association (from Domain 6B, alpha = .6815)

- D6BQ3 associates with prosocial peers
- D6BQ6 admires prosocial peers
- D6BQ7 resists negative peer influence

Family support (from Domain 7B, alpha = .5324)

- D7BQ2 parent willingness to support youth
- D7BQ3 parent participation in counseling/treatment
- D7BQ8 low conflict between youth and family
- D7BQ9 low conflict in family
- D7BQ10 parents disapprove of youth's antisocial behavior

Prosocial views on substances (from Domain 8B, alpha = .5932)

- D8BQ1 believes alcohol must be avoided
- D8BQ2 believes drug use must be avoided
- D8BQ3 no indication of current alcohol use
- D8BQ4 no indication of current drug use

Mental health (from Domain 9B, alpha = .2143)

- D9BQ1A1 no thoughts or plans for suicide (no entry for "check all that apply")

D9BQ1A5 no current mental health problems

Prosocial attitudes (from Domain 10, alpha = .8743)

D10Q1 optimism (aspirations, sense of purpose, commitment to better life)

D10Q2 not impulsive (uses self-control, thinks before acting)

D10Q3 belief in control over antisocial behavior

D10Q4 empathy for others

D10Q5 respect for property of others

D10Q6 respect for authority figures

D10Q7 believes program rules apply to him or her

D10Q8 believes laws apply to him or her

D10Q9 accepts responsibility of antisocial behavior

D10Q10 understands impact of behavior on others

Avoiding aggression (from Domain 11, alpha = .7576)

D11Q1 tolerance for frustration

D11Q1 positive view of others' intentions

D11Q1 believes verbal aggression is inappropriate

D11Q4 believes physical aggression is inappropriate

Current social skills (from Domain 12, alpha = .9294)

D12Q1 consequential thinking

D12Q2 goal setting

D12Q3 problem-solving

D12Q4 situational perception

D12Q5 dealing with others

D12Q6 dealing with difficult situations

D12Q7 dealing with feelings

D12Q8 monitoring internal triggers

D12Q9 monitoring external triggers

D12Q10 controlling impulsivity

D12Q11 controlling aggression

Current social skills (aggregate) (from Domains 12A-12E, alpha = .9867)

48 items dealing with the use of skills for appropriately dealing with others, appropriately dealing with difficult situations, appropriately dealing with feelings/emotions, controlling impulsive behaviors, and controlling aggression

Appendix 2: Static control variables

Significant static predictors of reoffending emerging from an iterative model building process with bootstrapping

Category		Variable
Age at release	AgeRelease	Age at release
Misdemeanor referrals	D1Q2A	None or one Two Three or four Five or more
Felony referrals:	D1Q3A	None or one Two Three or more
Confinements in secure detention	D1Q9A	None One Two Three or more
Commitment orders	D1Q10A	Two or more
Pick-Up Orders	D1Q12A	Two or more
Gender	male	Male
Youth is a special education student	D3AQ1A	No special education needs
History of expulsions	D3AQ2A	four or more
Age at first expulsion	D3AQ3A	16 to 18 years
Antisocial friends	D6AQ2A	Has any antisocial friends
History of running away or kicked out	D7AQ2A	None or one instance of running away
History of youth's drug use	D8AQ2A	No past drug use
History of ADHD	D9AQ6A	ADHD medication and treatment prescribed

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SPB 7016

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: Department of Corrections

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes		Pre-meeting

I. Summary:

SPB 7016 amends s. 944.35, F.S., providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections (DOC) who engages in sexual misconduct with specified inmates or offenders. A person who commits this offense commits a third degree felony.¹

This bill transfers all power, duties, functions, records, offices, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities by a type two transfer, as defined in s. 20.06(2), F.S.,² from the Department of Management Services (DMS) to the DOC. Any binding contracts or interagency agreements between the DMS and the DOC continues for the remainder of the contract.

The bill amends s. 287.042, F.S., to prohibit the DMS from entering into contracts for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities.

The bill may have a positive indeterminate fiscal impact on the DOC (unquantifiable positive prison bed impact). The provisions of the bill relating to the transfer of oversight of private correctional facilities will likely have no fiscal impact due to the type two transfer provisions.

The bill amends ss. 957.04 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S., conforming provisions to changes made by the act.

¹ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

² Section 20.06(2), F.S., states that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, merging into an agency or department of the existing agency or department with certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Sexual Misconduct with Inmates

Section 944.35, F.S., states that any employee of the DOC or a private correctional facility as defined in s. 944.710, F.S., who engages in sexual misconduct with an inmate or an offender supervised by the DOC in the community, without committing the crime of sexual battery, commits a third degree felony.³

The consent of such inmate or offender to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.⁴ This paragraph does not apply to any employee of the DOC or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the DOC in the community. It also does not apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in sexual misconduct is an inmate or an offender under community supervision of the DOC.⁵

“Sexual misconduct” means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee’s duty.⁶

Sexual misconduct by corrections officers and other prison staff can violate the Eighth Amendment, regardless of whether physical force is used.⁷ Under federal and state law, forms of coerced sexual contact are prohibited by general criminal laws that apply to all persons regardless of the setting in which the coerced sexual contact occurs. Forty-one states, including the District of Columbia and the federal government, have laws specifically prohibiting criminalizing certain types of sexual misconduct in prisons.⁸ Florida is one of the states that criminalizes sexual contact between correctional employees of the DOC and a person under the DOC’s custody.⁹

Rule 33-208.001(5), F.A.C., governs the conduct of volunteers and non-DOC employees. The rule states that all rules, directives, and policy statements governing conduct of the DOC employees apply to volunteers and non-DOC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, Warden, Officer-in-Charge, or Supervisor.

³ Section 944.35(3)(b)2., F.S.; A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

⁴ Section 944.35(3)(b)3., F.S.

⁵ Section 944.35(3)(b)4., F.S.

⁶ Section 944.35(3)(b)1., F.S.

⁷ *Sconiers v. Lockhart*, 946 F.3d 1256, 1267 (11th Cir. 2020) (holding the Eight Amendment protects prisoners from sexual abuse, even when there is no serious physical injury).

⁸ United States General Accounting Office, *Women in Prison, Sexual Misconduct by Correctional Staff*, p. 5 (June 1999) available at <https://www.gao.gov/products/ggd-99-104> (last visited March 3, 2023).

⁹ Section 944.35, F.S.

Sexual Misconduct Between Detention Facility Employees and Inmates

Section 951.221, F.S., states that any employee of a county or municipal detention facility or of a private detention facility under contract with a county commission who engages in sexual misconduct, as defined in s. 944.35(3)(b)1., F.S., with an inmate or an offender supervised by the facility without committing the crime of sexual battery commits a third degree felony.¹⁰ The consent of an inmate to any act of sexual misconduct may not be raised as a defense to prosecution under this section.¹¹

Transfer of Private Prison Oversight

The DMS,¹² is responsible for overseeing the State's private prison system and ensuring private correctional facility compliance with contract terms and conditions.¹³

The DMS currently oversees private prisons in Florida and has the powers, duties, and functions to contract.¹⁴ The Bureau of Private Prison Monitoring at DMS currently contracts with three providers, CoreCivic of Tennessee, LLC (CoreCivic); GEO Group, Inc., (GEO); and Management and Training Corporation (MTC), to operate and manage the seven private correctional facilities throughout the state.¹⁵

Section 287.057, F.S., provides that state agencies are responsible for enforcing the terms and conditions of all contracts and ensuring that deliverables are appropriately satisfied. In Florida, the Bureau of Private Prison Monitoring at DMS is responsible for the oversight and contractual compliance for the private prison system with the state.¹⁶

In June 2022, the Florida Auditor General conducted an operational audit of the DMS on the oversight of the Bureau of Private Prisons.¹⁷ The audit found seven areas of deficiency.¹⁸

¹⁰ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

¹¹ Section 951.221, F.S.

¹² Bureau of Private Prison Monitoring is a business operation within the Department of Management Services. This information is available at https://www.dms.myflorida.com/business_operations/private_prison_monitoring (last visited March 6, 2023).

¹³ Section 957.04, F.S.

¹⁴ Section 287.042, F.S.

¹⁵ Dixon, Matt, (2013, December 16). *New contracts give private prison giant nearly 80 percent of Florida's private prison market*. Retrieved from The Florida Times-Union: <https://www.jacksonville.com/story/news/2013/12/16/new-contracts-give-private-prison-giant-nearly-80-percent-floridas-private/15805432007/> (last visited March 3, 2023).

¹⁶ In accordance with ch. 957, F.S., the Bureau of Private Prison Monitoring is responsible for entering into contracts for the design, construction, and operation of privately operated correctional facilities.

¹⁷ Florida Auditor General, *Department of Management Services Oversight of Private Correctional Facilities Operational Audit*. Report No. 2022-23 (June 2022) (on file with the Senate Committee on Criminal Justice).

¹⁸ *Id.* The Florida Auditor General conducted an operational audit of the Department of Management Services finding there to be issues with noncompliance, maintenance, safety, and staffing. The audit found seven areas of deficiency with the Bureau of Private Prison Monitoring at DMS: (1)The Bureau did not always issue written notices of noncompliance or document the basis for not issuing notices of noncompliance to private prison providers when noncompliance was identified; (2) The Bureau had not established policies and procedures for monitoring provider maintenance activities at private correctional facilities and monitoring tools were not always completed; (3) The Bureau policies and procedures for, and documentation of, review of on-site nursing consultant activities were identified as needing improvement to demonstrate that health care

III. Effect of Proposed Changes:

The bill amends s. 944.35, F.S., providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the DOC who engages in sexual misconduct with an inmate. Any person who commits such offense commits a third degree felony.¹⁹ This language is consistent with the intent of Rule 33-208.001(5), F.A.C.²⁰

The bill proposes a transfer of oversight from the DMS to the DOC. The bill transfers all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities by a type two transfer, as defined in s. 20.06(2), F.S.,²¹ from the DMS to the DOC.

The bill also amends s. 287.042, F.S., prohibiting the DMS from entering into contracts for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities.

The bill amends ss. 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S., conforming provisions to changes made by the act.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

monitoring services at private correctional facilities are provided in accordance with contract terms; (4) The Bureau monitoring of private correctional facility staff was identified as needing enhancement to ensure that appropriate and qualified staff were assigned to provide for and maintain security, control, custody, and supervision of inmates; (5) Bureau efforts to review and verify the accuracy and completeness of private correctional facility provider incident reporting need enhancement to ensure that incidents are correctly reported and appropriately handled in accordance with applicable contract provisions and Bureau policies and procedures; (6) The Bureau did not ensure that private correctional facility providers obtained and maintained required insurance coverage; and (7) The Bureau was identified as needing improvement to ensure that audited provider Inmate Bank and Commissary financial statements were timely received and appropriately reviewed.

¹⁹ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

²⁰ Rule 33-208.001(5), F.A.C. states that “all rules, directives, and policy statement governing conduct of Department of Corrections employees apply to volunteers and non-FDC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, Warden, Officer-in-Charge or Supervisor.”

²¹ Section 20.06(2), F.S., provides that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolishes.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate fiscal impact on the DOC (unquantifiable positive prison bed impact). The bill will increase the number of people convicted under this offense because it expands the crime to include volunteers, contractors, and subcontractors.

The provisions of the bill relating to the transfer of oversight of private correctional facilities will likely have no fiscal impact due to the type two transfer provisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.35, 287.042, 957.04, 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Criminal Justice

591-02247-23

20237016pb

A bill to be entitled

An act relating to the Department of Corrections; amending s. 944.35, F.S.; providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections who engages in sexual misconduct with specified inmates or offenders; providing for a type two transfer of private correctional facilities from the Department of Management Services to the Department of Corrections; amending ss. 287.042, 957.04, 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S.; conforming provisions to changes made by the act; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective October 1, 2023, subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)(a)1. Any employee of the department who, with malicious intent, commits a battery upon an inmate or an offender supervised by the department in the community, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Any employee of the department who, with malicious intent, commits a battery or inflicts cruel or inhuman treatment by neglect or otherwise, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to an

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inmate or an offender supervised by the department in the community, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. As used in this paragraph, the term:

a. "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

b. "Sexual misconduct" means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

2. Any employee of the department or a private correctional facility as defined in s. 944.710 or any volunteer or employee of a contractor or subcontractor of the department who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee of the department or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in

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sexual misconduct is an inmate or an offender under community supervision of the department.

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

(d) Each employee who witnesses, or has reasonable cause to suspect, that an inmate or an offender under the supervision of the department in the community has been unlawfully abused or is the subject of sexual misconduct pursuant to this subsection shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used or the nature of the sexual misconduct, the location and time of the incident, and the persons involved. The report shall be delivered to the inspector general of the department with a copy to be delivered to the warden of the institution or the regional administrator. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this subsection has occurred, the respective state attorney in the circuit in which the incident occurred shall be notified.

Section 2. All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Management Services to the Department of

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Corrections. Any binding contract or interagency agreement entered into and between the Department of Management Services concerning private correctional facilities and any other agency, entity, or person continues as a binding contract or agreement with the Department of Corrections for the remainder of the term of the contract or agreement.

Section 3. Subsection (17) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

~~(17)(a) To enter into contracts pursuant to chapter 957 for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities. The department shall enter into a contract or contracts with one contractor per facility for the designing, acquiring, financing, leasing, constructing, and operating of that facility or may, if specifically authorized by the Legislature, separately contract for any such services.~~

~~(b) To manage and enforce compliance with existing or future contracts entered into pursuant to chapter 957.~~

~~The department may not delegate the responsibilities conferred by this subsection.~~

Section 4. Section 957.04, Florida Statutes, is amended to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of private correctional facilities shall maximize the cost savings of such facilities and shall:

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117 (a) Be negotiated with the firm found most qualified.
 118 However, a contract for private correctional services may not be
 119 entered into by the department of ~~Management Services~~ unless the
 120 department of ~~Management Services~~ determines that the contractor
 121 has demonstrated that it has:

122 1. The qualifications, experience, and management personnel
 123 necessary to carry out the terms of the contract.

124 2. The ability to expedite the siting, design, and
 125 construction of correctional facilities.

126 3. The ability to comply with applicable laws, court
 127 orders, and national correctional standards.

128 (b) Indemnify the state and the department, including their
 129 officials and agents, against any and all liability, including,
 130 but not limited to, civil rights liability. Proof of
 131 satisfactory insurance is required in an amount to be determined
 132 by the department of ~~Management Services~~.

133 (c) Require that the contractor seek, obtain, and maintain
 134 accreditation by the American Correctional Association for the
 135 facility under that contract. Compliance with amendments to the
 136 accreditation standards of the association is required upon the
 137 approval of such amendments by the commission.

138 (d) Require that the proposed facilities and the management
 139 plans for the inmates meet applicable American Correctional
 140 Association standards and the requirements of all applicable
 141 court orders and state law.

142 (e) Establish operations standards for correctional
 143 facilities subject to the contract. However, if the department
 144 and the contractor disagree with an operations standard, the
 145 contractor may propose to waive any rule, policy, or procedure

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146 of the department related to the operations standards of
 147 correctional facilities which is inconsistent with the mission
 148 of the contractor to establish cost-effective, privately
 149 operated correctional facilities. The department of ~~Management~~
 150 ~~Services~~ shall be responsible for considering all proposals from
 151 the contractor to waive any rule, policy, or procedure and shall
 152 render a final decision granting or denying such request.

153 (f) Require the contractor to be responsible for a range of
 154 dental, medical, and psychological services; diet; education;
 155 and work programs at least equal to those provided by the
 156 department in comparable facilities. The work and education
 157 programs must be designed to reduce recidivism, and include
 158 opportunities to participate in such work programs as authorized
 159 pursuant to s. 946.523.

160 (g) Require the selection and appointment of a full-time
 161 contract monitor. The contract monitor shall be appointed and
 162 supervised by the department of ~~Management Services~~. The
 163 contractor is required to reimburse the department of ~~Management~~
 164 ~~Services~~ for the salary and expenses of the contract monitor. It
 165 is the obligation of the contractor to provide suitable office
 166 space for the contract monitor at the correctional facility. The
 167 contract monitor shall have unlimited access to the correctional
 168 facility.

169 (h) Be for a period of 3 years and may be renewed for
 170 successive 2-year periods thereafter. However, the state is not
 171 obligated for any payments to the contractor beyond current
 172 annual appropriations.

173 (2) Each contract entered into for the design and
 174 construction of a private correctional facility or juvenile

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commitment facility must include:

(a) Notwithstanding any provision of chapter 255 to the contrary, a specific provision authorizing the use of tax-exempt financing through the issuance of tax-exempt bonds, certificates of participation, lease-purchase agreements, or other tax-exempt financing methods. Pursuant to s. 255.25, approval is hereby provided for the lease-purchase of up to two private correctional facilities and any other facility authorized by the General Appropriations Act.

(b) A specific provision requiring the design and construction of the proposed facilities to meet the applicable standards of the American Correctional Association and the requirements of all applicable court orders and state law.

(c) A specific provision requiring the contractor, and not the department of ~~Management Services~~, to obtain the financing required to design and construct the private correctional facility or juvenile commitment facility built under this chapter.

(d) A specific provision stating that the state is not obligated for any payments that exceed the amount of the current annual appropriation.

(3) (a) Each contract for the designing, financing, acquiring, leasing, constructing, and operating of a private correctional facility shall be subject to ss. 255.2502 and 255.2503.

(b) Each contract for the designing, financing, acquiring, leasing, and constructing of a private juvenile commitment facility shall be subject to ss. 255.2502 and 255.2503.

(4) A contract entered into under this chapter does not

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accord third-party beneficiary status to any inmate or juvenile offender or to any member of the general public.

(5) Each contract entered into by the department of ~~Management Services~~ must include substantial minority participation unless demonstrated by evidence, after a good faith effort, as impractical and must also include any other requirements the department of ~~Management Services~~ considers necessary and appropriate for carrying out the purposes of this chapter.

(6) Notwithstanding s. 253.025(9), the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the department of ~~Management Services~~ if the department of ~~Management Services~~ finds that there is a need to expedite the lease-purchase.

(7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever the department of ~~Management Services~~ finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8). In those instances when the department of ~~Management Services~~ directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8), the department of ~~Management Services~~ may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the

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maximum value allowed by law.

Section 5. Subsection (2) of section 957.06, Florida Statutes, is amended to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(2) Choose the facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. The ~~Department of Management Services, the~~ contractor, and the department shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a private correctional facility. The department, ~~the Department of Management Services,~~ and the contractor must comply with the cooperative agreement.

Section 6. Section 957.07, Florida Statutes, is amended to read:

957.07 Cost-saving requirements.—

(1) The department ~~of Management Services~~ may not enter into a contract or series of contracts unless the department determines that the contract or series of contracts in total for the facility will result in a cost savings to the state of at least 7 percent over the public provision of a similar facility. Such cost savings as determined and certified by the Auditor General ~~Department of Management Services~~ must be based upon the actual costs associated with the construction and operation of similar facilities or services as determined by the department ~~of Corrections and certified by the Auditor General.~~ The

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~~department of Corrections~~ shall calculate all of the cost components that determine the inmate per diem in correctional facilities of a substantially similar size, type, and location that are operated by the department ~~of Corrections~~, including administrative costs associated with central administration. Services that are provided to the department ~~of Corrections~~ by other governmental agencies at no direct cost to the department shall be assigned an equivalent cost and included in the per diem.

(2) Reasonable projections of payments of any kind to the state or any political subdivision thereof for which the private entity would be liable because of its status as private rather than a public entity, including, but not limited to, corporate income and sales tax payments, shall be included as cost savings in all such determinations. In addition, the costs associated with the appointment and activities of each contract monitor shall be included in such determination.

(3) In counties where the department ~~of Corrections~~ pays its employees a competitive area differential, the cost for the public provision of a similar correctional facility may include the competitive area differential paid by the department.

(4) The department ~~of Corrections~~ shall provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report shall be provided to the Auditor General in sufficient time that it may be certified ~~to the Department of Management Services~~ to be included in the request for proposals.

(5) (a) At the request of the Speaker of the House of

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Representatives or the President of the Senate, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.

(b) When developing the consensus per diem rates, the workgroup must:

1. Use data provided by the department ~~of Corrections~~ from the most recent fiscal year to determine per diem costs for the following activities:

- a. Custody and control;
- b. Health services;
- c. Substance abuse programs; and
- d. Educational programs;

2. Include the cost of departmental, regional, institutional, and program administration and any other fixed costs of the department;

3. Calculate average per diem rates for the following offender populations: adult male, youthful offender male, and female; and

4. Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.

(c) The consensus per diem rates determined by the workgroup may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to

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meet the 7-percent savings required of private prisons by this chapter.

(d) If a private vendor chooses not to renew the contract at the appropriated level, the department ~~of Management Services~~ shall terminate the contract as provided in s. 957.14.

Section 7. Section 957.08, Florida Statutes, is amended to read:

957.08 Capacity requirements.—The department ~~of Corrections~~ shall transfer and assign prisoners to each private correctional facility opened pursuant to this chapter in an amount not less than 90 percent or more than 100 percent of the capacity of the facility pursuant to the contract ~~with the Department of Management Services~~. The prisoners transferred by the department ~~of Corrections~~ shall represent a cross-section of the general inmate population, based on the grade of custody or the offense of conviction, at the most comparable facility operated by the department.

Section 8. Section 957.14, Florida Statutes, is amended to read:

957.14 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume temporary control of a private correctional facility upon termination of the contract. The department ~~of Management Services~~ may terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or

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security of the inmates, employees, or the public, the department may temporarily assume control of the private correctional facility, with the approval of the department of ~~Management Services~~. A plan shall also be provided by a private vendor for the purchase and temporary assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

Section 9. Section 957.15, Florida Statutes, is amended to read:

957.15 Funding of contracts for operation, maintenance, and lease-purchase of private correctional facilities.—The request for appropriation of funds to make payments pursuant to contracts entered into by the department of ~~Management Services~~ for the operation, maintenance, and lease-purchase of the private correctional facilities authorized by this chapter shall be made by the ~~Department of Management Services in a request to the department~~. The department shall include such request in its budget request to the Legislature as a separately identified item ~~and shall forward the request of the Department of Management Services without change. After an appropriation has been made by the Legislature to the department for the private correctional facilities, the department shall have no authority over such funds other than to pay from such appropriation to the appropriate private vendor such amounts as are certified for payment by the Department of Management Services.~~

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Section 10. Section 957.16, Florida Statutes, is amended to read:

957.16 Expanding capacity.—The department of ~~Management Services~~ is authorized to modify and execute agreements with contractors to expand up to the total capacity of contracted correctional facilities. Total capacity means the design capacity of all contracted correctional facilities increased by one-half as described under s. 944.023(1)(b). Any additional beds authorized under this section must comply with the cost-saving requirements set forth in s. 957.07. Any additional beds authorized as a result of expanded capacity under this section are contingent upon specified appropriations.

Section 11. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2023.

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2022-203
June 2022

DEPARTMENT OF MANAGEMENT SERVICES

Oversight of Private Correctional Facilities



Sherrill F. Norman, CPA
Auditor General

Secretary of the Department of Management Services

The Department of Management Services is established by Section 20.22, Florida Statutes. The head of the Department is the Secretary who is appointed by the Governor and subject to confirmation by the Senate. During the period of our audit, the following individuals served as Secretary:

Jonathan Satter from February 5, 2019^a

Erin Rock through January 8, 2019

^a Position was vacant from January 9, 2019,
through February 4, 2019

The team leader was David Cain, CPA, and the audit was supervised by Christi Alexander, CPA.

Please address inquiries regarding this report to Christi Alexander, CPA, Audit Manager, by e-mail at christialexander@aud.state.fl.us or by telephone at (850) 412-2786.

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DEPARTMENT OF MANAGEMENT SERVICES

Oversight of Private Correctional Facilities

SUMMARY

This operational audit of the Department of Management Services (Department) focused on the oversight of private correctional facilities. Our audit disclosed the following:

Finding 1: The Bureau of Private Prison Monitoring (Bureau) did not always issue written notices of noncompliance or document the basis for not issuing notices of noncompliance to private prison providers when continued noncompliance was identified by Bureau monitoring activities. Additionally, Department controls over the issuance of notice letters and adjustment of private correctional facility provider compensation need enhancement to ensure that Department records evidence the basis for issuing or not issuing notice letters and applying provider compensation adjustments.

Finding 2: The Bureau had not established policies and procedures for monitoring provider maintenance activities at the private correctional facilities and Bureau monitoring tools were not always completed, Bureau monitoring reports did not evidence supervisory review, written notice of noncompliance was not given to providers, and Bureau records did not evidence that provider deficiencies were timely followed up on or corrective actions were timely implemented.

Finding 3: Bureau policies and procedures for, and documentation of, review of the on-site nursing consultant's activities need improvement to demonstrate that health care monitoring services at private correctional facilities are provided in accordance with contract terms. Additionally, Bureau records did not always evidence that appropriate actions were taken in response to the consultant's findings.

Finding 4: Bureau monitoring of private correctional facility staffing needs enhancement to ensure that appropriate and qualified staff are assigned to provide for and maintain the security, control, custody, and supervision of inmates.

Finding 5: Bureau efforts to review and verify the accuracy and completeness of private correctional facility provider incident reporting need enhancement to ensure that incidents are correctly reported and appropriately handled in accordance with applicable contract provisions and Bureau policies and procedures.

Finding 6: The Bureau did not ensure that private correctional facility providers obtained and maintained required insurance coverages.

Finding 7: Bureau controls need improvement to ensure that audited provider Inmate Bank and Commissary financial statements are timely received and appropriately reviewed.

BACKGROUND

Pursuant to State law,¹ the Department of Management Services (Department), Division of Specialized Services (Division), Bureau of Private Prison Monitoring (Bureau), is responsible for overseeing the

¹ Section 957.04, Florida Statutes.

State's private prison system and ensuring private correctional facility compliance with contract terms and conditions. For the 2020-21 and 2021-22 fiscal years, the Legislature appropriated approximately \$2.9 million and \$3 million, respectively, for private prison monitoring and authorized 15 Bureau positions.²

The Bureau contracted with three providers, CoreCivic of Tennessee, LLC (CoreCivic); GEO Group, Inc. (GEO); and Management and Training Corporation (MTC), to operate and manage the seven private correctional facilities located throughout the State. Table 1 summarizes, by provider, information regarding the private correctional facilities managed, including the contract period and contract amounts. During the period July 2018 through June 2021, the Bureau oversaw contracts totaling approximately \$1.7 billion.

Table 1
Private Correctional Facility Contracts
Active During the Period July 2018 Through June 2021

Provider	Correctional Facility/ Contract Numbers	Contract Begin Date	Original Contract End Date	Amended Contract End Date	Original Contract Amount	Total Contract Amount ^a as of 06-30-2021
CoreCivic	Lake City Youthful Offender Facility (DMS 08/09-076)	07-31-2009	06-30-2012	06-30-2022	\$ 59,495,925	\$ 251,265,837
GEO	Bay Correctional Facility (DMS 13/14-009A)	02-01-2014	01-31-2017	07-31-2021	47,511,229	123,815,095
	Blackwater River Correctional Facility (DMS 08/09-026)	11-01-2010	10-31-2013	10-03-2021	91,980,000	344,896,601
	Graceville Correctional Facility (DMS 12/13-010)	02-01-2014	01-31-2017	08-31-2021	74,060,982	195,960,413
	Moore Haven Correctional Facility (DMS 13/14-009B)	02-01-2014	01-31-2017	06-30-2021	47,187,656	121,315,511
	South Bay Correctional Facility (DMS 08/09-077)	07-01-2009	06-30-2012	12-31-2022	225,033,702	587,248,052
MTC	Gadsden Correctional Facility (DMS 17/18-025)	02-01-2018	07-31-2019	07-31-2019	29,697,228	30,299,924
	Gadsden Correctional Facility (DMS 17/18-023)	08-01-2019	06-30-2021	06-30-2022	41,241,000	42,232,600
Totals					<u>\$616,207,722</u>	<u>\$1,697,034,033</u>

^a Total contract amount includes the original contract amount, applicable contract renewals, extensions, and amendments (e.g., increases in per diem rates) made through June 30, 2021.

Source: Department and Florida Accountability Contract Tracking System records.

EXHIBIT A to this report provides additional private correctional facility location and demographic information.

² Chapters 2020-111 and 2021-36, Laws of Florida.

FINDINGS AND RECOMMENDATIONS

Finding 1: Provider Monitoring

The Bureau designated an on-site contract monitor (OCM) at each private correctional facility and, through various monitoring activities including monthly and quarterly reviews, was to determine whether private correctional facility provider programs and services were delivered in accordance with contract terms. Department guidance specified that provider programs and services were to be evaluated by the Bureau using a standard set of contract performance indicators (CPIs)³ that included areas such as classification, grievances, academic and vocational programs, health care, mental health and substance abuse services, employee training, safety, and security. If a deficiency was noted, the Bureau was to determine based on the severity of the deficiency whether written notice of noncompliance should be issued to the provider notifying the provider that they had 20 days to correct the deficiency and provide a corrective action plan (CAP). Adjustments to provider compensation could occur once the CAP was accepted or, if a noncompliance issue was not resolved within the established time frame, at which time the provider was notified by an official notice letter.

As part of our audit, we examined various monitoring records, including 14 of the 140 monthly CPI tools and 7 of the 42 quarterly CPI tools completed by the Bureau during the 20-month period July 2018 through February 2020. Our examination found that, for the issues subsequently described, the Bureau did not issue written notices of noncompliance to providers or did not document the basis for not issuing notices when continued noncompliance was identified. Specifically:

Monthly CPI Tools

- MTC did not follow up on maintenance issues noted by the OCM at the Gadsden Correctional Facility for 17 months (October 2018 through February 2020), maintain appropriate vehicle utilization logs for 3 months (September 2018 through November 2018), or provide key personnel proper radio equipment for 3 months (May 2019 through July 2019). Additionally, Bureau monitoring records indicated that MTC could not demonstrate that key security personnel had received appropriate training in accordance with Department of Corrections (DOC) requirements for 5 months (September 2019 through January 2020).
- GEO did not maintain adequate levels of security personnel at the Graceville Correctional Facility for two 3-month periods (March 2019 through May 2019) and (July 2019 through September 2019), nor properly maintained the fire safety system for 3 months (August 2018 through October 2018).
- Contrary to contract requirements, GEO did not provide the OCM for the Moore Haven Correctional Facility staffing information for 3 months (April 2019 through June 2019).

Quarterly CPI Tools

- MTC did not adequately update the certified correctional staff training system for 2 consecutive quarters (January 2019 through June 2019).
- GEO did not provide adequate education services at the Bay Correctional Facility for 3 consecutive quarters (April 2019 through December 2019).

³ CPIs were based on the terms and conditions of the contract, State law, Department of Corrections policies and procedures, and American Correctional Association Standards.

- GEO did not accurately report information regarding inmate participation in substance abuse programs at the South Bay Correctional Facility for 2 consecutive quarters (July 2018 through December 2018).

In response to our audit inquiry, Bureau management indicated that working with and addressing provider concerns contributed to written notices of noncompliance not being issued.

Our reviews of Bureau policies and procedures and interviews with Department and Bureau management disclosed that, during the period July 2018 through July 2019, several changes were made to the notice letter process. Specifically:

- Prior to July 2018, notice letters were handled by the Bureau. Notice letters were recommended by Bureau staff to the Bureau Chief, who reviewed and approved or denied issuance of the notice letters.
- In July 2018, responsibility for final notice letter decisions was shifted to the Division. Consequently, notice letters were first sent to the Bureau Chief for review and initial approval or denial and then forwarded to the Division Director for final review and approval or denial.
- Beginning July 2019, the Division Director was required to route the notice letters for approval or denial through the Department's Legal Division and senior management that included the Department Secretary, Deputy Secretary, and Chief of Staff.

We examined all notice letters issued by the Department to private correctional facility providers during the period July 2017 through February 2020 that included adjustments to provider compensation. As shown in Table 2, our examination disclosed that, as the Department notice letter process evolved, both the number of notice letters issued to providers and the number and amount of adjustments to provider compensation significantly decreased, from 33 notice letters issued with compensation adjustments totaling \$484,750 during the 2017-18 fiscal year to 12 notice letters issued with compensation adjustments totaling \$58,500 during the 2018-19 fiscal year.

Table 2
Notice Letters Issued and Provider Compensation Adjustments
July 2017 Through February 2020

Provider	Correctional Facility	July 2017 – June 2018		July 2018 – June 2019		July 2019 – February 2020	
		Notice Letters	Adjustment Amount	Notice Letters	Adjustment Amount	Notice Letters	Adjustment Amount
CoreCivic	Lake City Youthful Offender Facility	3	\$ 22,500	-	\$ -	1	\$ 5,000
GEO	Bay Correctional Facility	-	-	-	-	-	-
	Blackwater River Correctional Facility	8	77,750	1	5,000	-	-
	Graceville Correctional Facility	7	47,500	-	-	-	-
	Moore Haven Correctional Facility	3	42,500	2	17,500	1	10,000
	South Bay Correctional Facility	5	27,000	1	6,000	2	8,500
MTC	Gadsden Correctional Facility	7	267,500	8	30,000	-	-
Totals		<u>33</u>	<u>\$484,750</u>	<u>12</u>	<u>\$58,500</u>	<u>4</u>	<u>\$23,500</u>

Source: Department records.

We also found that policies and procedures for the notice letter process were not revised to reflect the process changes and documentation evidencing Division or Department approvals or denials of notice letters and the basis for such decisions was limited and, at times, not available for our review. For

example, while Bureau monitoring records evidenced significant noncompliance related to security staffing by GEO at the Bay Correctional Facility⁴ and the Bureau recommended withholding \$180,000 from GEO, the Division Director denied the withholding without documenting for the public record the basis for the denial.

Similar security staffing noncompliance was noted in Bureau monitoring records for GEO at the Blackwater Correctional Facility,⁵ as well as that GEO withheld time sheet information from the Bureau and, consequently, the Bureau could not verify overtime data pursuant to contract requirements. According to Bureau monitoring records, after a notice of noncompliance was sent to GEO for withholding the time sheet information, GEO appealed and senior Department management addressed the issue with senior GEO management. However, Bureau records did not evidence resolution of the issue. Further, Bureau monitoring records indicated that, while a notice of noncompliance was sent to GEO for the security staffing issues, a week later the Division Director placed a hold on the notice and e-mail records indicated that the Division Director did not concur with the notice for a number of reasons, including that GEO was working to increase staffing and had been requested to provide a recruiting plan and timeline to ensure that staffing deficiencies were addressed.

Although we requested, Department management was unable to provide an explanation for why such documentation was not always available to evidence decisions made.

Absent the issuance of written notices of noncompliance for continued contractual noncompliance or documentation evidencing the basis for Department decisions to not issue such notices, Department management's ability to demonstrate that private correctional facility providers are subject to appropriate oversight and contract compliance is limited. Further, written policies and procedures that reflect current processes and documentation of Department decisions promotes transparency and ensures consistent monitoring and enforcement of contract terms.

Recommendation: We recommend that, when warranted by monitoring findings, the Department issue written notices of noncompliance to private correctional facility providers. Further, to promote transparency and ensure consistent monitoring and enforcement of contract terms, we recommend that Department management enhance policies and procedures and retain documentation evidencing Department decisions.

Finding 2: Facility Maintenance Monitoring

Pursuant to contracts with the Bureau, the providers operating and managing the seven private correctional facilities located throughout the State were to:

- Provide an environmentally clean, healthy, and safe facility for both employees and inmates.

⁴ According to Bureau monitoring records, GEO did not meet DOC security personnel requirements for 13 months (January 2019 through January 2020) and did not provide adequate levels of security and trained personnel for 9 months (February 2019 through October 2019).

⁵ According to Bureau monitoring records, GEO did not maintain adequate levels of security personnel for 11 months (August 2018 through June 2019) and did not meet minimum staffing requirements for critical security personnel for 5 months (February 2019 through June 2019).

- Maintain the physical structure of the facility and all tangible personal property contained therein, including leased furnishings and equipment, including all maintenance related to structural conditions or defects as well as ordinary routine maintenance.
- Maintain, preserve, and keep the facility and the leased furnishings and equipment in good repair, working order and condition, subject to normal wear and tear, and promptly make or cause to be made all necessary and proper repairs.

As part of our evaluation of Bureau monitoring activities, we interviewed Bureau management and examined Bureau records for 7 of the 28 facility maintenance monitoring engagements conducted by the Bureau during the period July 2018 through February 2020. We found that the Bureau had not established policies and procedures for maintenance monitoring and that the absence of such policies and procedures may have contributed to:

- Bureau monitoring tools not being used for 2 of the selected maintenance monitoring engagements.
- Monitoring reports for the 7 selected maintenance monitoring engagements not evidencing supervisory review.
- Bureau records for the 7 selected maintenance monitoring engagements evidencing provider noncompliance, but not:
 - Written notice of noncompliance to the providers.
 - Documentation submitted by the provider supporting that timely corrective action had been taken.
 - Documentation supporting that the Bureau timely followed up to ensure that corrective actions had been implemented.

The noncompliance issues noted during the maintenance monitoring engagements included plumbing leaks and fixtures identified with broken or missing components, multiple trouble codes present on fire alarm control panels, and certain security-related deficiencies.

In response to our audit inquiry, Bureau management indicated that the Bureau's maintenance monitoring process had not been formalized and that management was in the process of developing policies and procedures. Bureau management further indicated in April 2022 that maintenance monitoring had not been conducted since September 2020 when the responsible monitor separated from Department employment. However, a new monitor had been hired and monitoring was to resume in a few weeks.

Effective facility maintenance monitoring evaluates whether contract requirements are being met and identifies problems as early as possible so that corrective actions may be timely initiated. Absent written facility maintenance monitoring policies and procedures, the risk is increased that monitoring may not be appropriate or performed in accordance with management's expectations.

Recommendation: We recommend that Bureau management continue efforts to establish facility maintenance monitoring policies and procedures and ensure that:

- **Maintenance monitoring is routinely conducted within reasonable time frames.**
- **Monitoring tools are completed for all engagements.**
- **Monitoring reports are subject to supervisory review and, when appropriate, written notices of noncompliance are provided to providers.**
- **Follow-up is timely conducted to ensure identified deficiencies are promptly corrected.**

Finding 3: Monitoring of Health Care Services

Effective contract administration includes monitoring to assess contractor compliance with applicable contract provisions, laws, and regulations, and to provide a means for early detection of performance problems. In November 2018, the Department contracted with an on-site nursing consultant for the assessment of correctional health care services, including physical, mental health, substance abuse, dental, pharmacy, and related services delivered to inmates in private correctional facilities. Pursuant to the contract, the consultant was, among other things, to:

- Participate in planning strategy sessions with the Bureau to coordinate the annual monitoring schedule and evaluate, review, develop, and update the health care CPI monitoring tool as needed.
- Complete on-site monitoring at each of the seven private correctional facilities at least three times a year, with the first on-site monitoring to be completed on or before October 31 of each fiscal year. Third visits were to be completed by April 30.
- Collect and analyze evaluation data from each facility, assess the effectiveness of program services by interpreting the data collected from the evaluation, and prepare and submit to the Bureau within 10 days of an on-site visit a completed health care CPI monitoring tool and executive summary documenting the results from each on-site monitoring visit.
- Perform a quarterly electronic search of each health care employee's licensure status via the State's License Verification database and provide, within 15 days from the end of each quarterly review, a written report of the search results to the Bureau.

For each private correctional facility, the Bureau was to review the consultant-completed health care CPI monitoring tool and executive summary and notify the facility of the on-site monitoring results. If performance problems were identified by the consultant, the Bureau was responsible for issuing notice letters to ensure that facilities took appropriate and timely corrective actions. As similarly noted in Finding 1, if a CPI remained noncompliant, the Bureau was to notify the provider in writing that they had 20 days to correct the deficiency and provide a CAP. Adjustments to provider compensation could occur once the CAP was accepted or if a noncompliance issue was not resolved within the established time frame. During the period July 2018 through February 2020, the on-site nursing consultant conducted 34 quarterly monitoring visits at the seven private correctional facilities.

We evaluated Bureau processes and procedures for monitoring the on-site nursing consultant for compliance with applicable contract provisions, laws, and regulations, and found that the Bureau had neither established policies and procedures for reviewing whether the consultant satisfied all contract deliverables nor a mechanism to track Bureau review of consultant-completed health care CPI monitoring tools and executive summaries. The absence of such controls may have contributed to the issues noted on audit. Specifically:

- Our examination of records for 9 of the 34 monitoring visits disclosed that the health care CPI monitoring tools and executive summaries for 8 of the 9 monitoring visits did not evidence Bureau review. According to Bureau management, the tools and summaries had been reviewed, but the review dates and reviewer names were not recorded and will be added to review documents going forward.
- For the 25 monitoring visits during which the consultant noted deficiencies, Bureau records did not evidence that:

- The Bureau sent notice letters to the providers with deficiencies noted during 4 of the monitoring visits.
- The Bureau obtained from providers CAPs related to deficiencies noted during 5 of the monitoring visits.
- Bureau CAP acceptance or denial decisions were made for 9 of the monitoring visits.
- The Bureau followed up on 9 of the monitoring visits to ensure that corrective actions were implemented by the private correctional facility provider.
- During the period July 2018 through February 2020, the consultant performed only four of the seven required quarterly electronic searches for licenses of health care employees at the Bay, Gadsden, and Graceville Correctional Facilities and five of the seven required license searches at the Blackwater, Lake City, Moore Haven, and South Bay Correctional Facilities. Bureau management indicated that the consultant usually performed license searches three times a year, not quarterly, in conjunction with the nurse's on-site monitoring visits.
- Contrary to contract requirements, the consultant's health care CPI tools and executive summaries documenting the results of each monitoring visit were not always provided to the Bureau within 10 days of a monitoring visit. Specifically, consultant health care CPI monitoring tools and executive summaries for monitoring visits at the Gadsden Correction Facility and the South Bay Correctional Facility were provided 32 and 88 days, respectively, after the visits were conducted.

Without policies and procedures for, and adequate documentation evidencing, review of the on-site nursing consultant's activities and appropriate Bureau follow-up actions, the Department cannot clearly demonstrate that contractual services were provided in accordance with contract terms, contract deliverables were adequately received, or appropriate actions were taken in response to the consultant's findings.

Recommendation: We recommend that Bureau management establish policies and procedures for assessing the on-site nursing consultant's satisfaction of contract deliverables and a mechanism to track the Bureau's review of the consultant's health care CPI monitoring tool and executive summary. Additionally, we recommend that Bureau management enhance controls to ensure that:

- Bureau records evidence review of consultant health care CPI monitoring tools and executive summaries.
- Bureau records evidence that appropriate actions are taken in response to the consultant's findings.
- Health care employee license searches are conducted in accordance with contract terms.
- Consultant health care CPI monitoring tools and executive summaries are timely submitted.

Finding 4: Monitoring of Facility Staffing

State law⁶ provides that State agencies are responsible for enforcing the terms and conditions of all contracts and ensuring that deliverables are appropriately satisfied. Pursuant to contracts with the Bureau, providers were to at all times provide sufficient, trained staff to provide for and maintain the

⁶ Section 287.057, Florida Statutes.

security, control, custody, and supervision of inmates of the facility in compliance with applicable court orders, American Correctional Association Standards, and the contract. The provider was to, among other things, maintain or provide as applicable:

- An organization chart that included all positions within the facility, indicating which positions were certified, critical complement, and mission critical.
- A staffing pattern approved by the Department's contract manager prior to the service commencement date. Any modifications to the position requirements or the staffing patterns had to be approved in writing by the Department's contract manager. All name changes were to be sent to the OCM and noted on the Position Control Logs monthly.
- A finalized chart for each shift (i.e., daily shift rosters) indicating critical complement and positions required to be filled.
- A bi-weekly report that listed the number of hours each certified officer and temporary officer worked during the pay period. Part-time correctional officers could be used if they were fully trained and licensed. However, the use of part-time correctional officers was limited to a maximum of 32 hours per officer, per week, and a total not to exceed 1,440 hours per week for the facility. Full-time correctional officers were limited to no more than 32 hours of overtime in any 2-week period unless the provider had requested and was granted an exception to the limit by the Bureau.
- Records of participation in and compliance with the provisions of the Employment Eligibility Verification Program (E-Verify Program),⁷ including participation by provider subcontractors as applicable.
- A file containing job descriptions for each position included in the staffing pattern along with documentation of the facility's annual review of the job descriptions.

As part of our audit, we evaluated Bureau processes and examined Bureau records for assessing provider compliance with facility staffing requirements during the period July 2018 through February 2020. We found that the Bureau had not established policies and procedures to address the specific criteria and methods used to assess provider compliance or the Bureau monitoring documentation to be retained, which may have contributed to the issues noted on audit. Specifically, we found that:

- For August 2, 2018, and April 27, 2019, the applicable bi-weekly staffing reports were not available to evidence the number of hours worked by employees at the Moore Haven Correctional Facility. Additionally, for a Graceville Correctional Facility report, Bureau records did not evidence that an exception had been granted for a full-time employee's overtime work that exceeded by 7.45 hours the 32 hours per officer, per 2-week contract provision.
- 3 of the 14 daily shift rosters included in our audit testing were not available to evidence whether the appropriate number of qualified employees were on duty (Bay Correctional Facility on July 4, 2019, and the Moore Haven Correctional Facility on August 2, 2018, and April 27, 2019).
- Bureau records did not evidence verification of each providers' participation in and compliance with the E-Verify Program.

According to Bureau management, the methods used to assess provider performance and document Bureau monitoring activities varied by OCM. Further, Bureau management indicated that the Bureau did not maintain a central repository of the records received from the facilities and, instead, permitted OCMs

⁷ The E-Verify Program is administered by the United States Department of Homeland Security.

to retain their records via e-mail or other means. Consequently, because the OCM assigned to the Moore Haven Correctional Facility retired in January 2021, the Bureau's access to the records requested on audit was limited. Additionally, Bureau management indicated that the OCMs were to verify provider E-Verify Program participation via a sample at each facility, but documentation of such testing was not always maintained. Bureau management indicated that the CPI tool would be revised to include specific criteria and documentation requirements necessary to satisfy E-Verify Program participation and compliance.

Policies and procedures that address the conduct of monitoring activities and adequate CPI tools reduce the risk of inconsistent and ineffective monitoring techniques and outcomes and provide additional assurance that evidence demonstrating the conduct and results of monitoring efforts is appropriately prepared and retained.

Recommendation: We recommend that Bureau management enhance CPI tools and establish facility staffing monitoring policies and procedures. Such policies and procedures should specify the manner in which Bureau monitoring activities are to be conducted and documented.

Finding 5: Incident Reporting

Contract provisions required providers to adhere to Department and DOC policies and procedures related to incident reporting. Specifically, private correctional facility providers were required to submit to the DOC reports on reportable incidents, including inmate altercations with facility staff and incidents that required outside medical attention. Incident reports were to be uploaded to the DOC's Management Information Notification System (MINS) and were to contain several data points, including the names of the parties involved, a description of the incident, and corrective actions taken.

As part of our audit, we examined Bureau records for 60 of the 6,253 incidents reports uploaded to MINS by private prison providers during the period July 2018 through February 2020 and found that, as part of the Bureau's facility oversight responsibilities, the Bureau did not verify the accuracy or completeness of incident report information. Specifically, we noted that:

- 46 of the selected incident reports did not include the corrective actions taken.
- Department records did not evidence that the Bureau reviewed or verified the information included in the 60 selected incident reports, or determined whether the incidents were correctly reported and appropriately handled by the provider in accordance with applicable contract provisions and policies and procedures.

According to Bureau management, incident reports were not always verified for completeness and accuracy in MINS by the Bureau due to the high volume of incidents and limited resources.

Absent documented review and verification of the accuracy and completeness of incident report information and actions to evaluate provider actions related to the reported incidents, the Department has reduced assurance that providers correctly report and handle incidents in accordance with applicable contract provisions and policies and procedures.

Recommendation: We recommend that Department management review and verify the accuracy and completeness of incident report information and take appropriate actions to evaluate

provider actions. Such review, verification, and evaluation efforts should be documented in Department records.

Finding 6: Insurance Coverages

State law⁸ requires private correctional facility providers to provide the Department proof of satisfactory insurance coverage in amounts determined by the Department. Table 3 depicts, by insurance type, the minimum coverage per occurrence and minimum yearly aggregate coverage amounts as outlined in each provider's private correctional facility contract with the Department.

Table 3
Required Insurance Coverages

Coverage	Required Insurance Coverage Amounts		
	Per Occurrence	Yearly Aggregate	Additional Insured
General Liability (to include fire and legal liability)	\$2,000,000	\$10,000,000	Yes ^a
Civil Rights Liability	\$2,000,000	\$5,000,000	Yes ^a
Vehicle Liability	\$2,000,000	N/A	No
Employee Dishonesty	\$50,000	N/A	No
Workers' Compensation	Specific to Contract	N/A	No
Professional Liability	\$2,000,000	\$5,000,000	No
Umbrella Liability (to include premises liability)	\$10,000,000	\$35,000,000	No
Contractual Liability	\$2,000,000	\$10,000,000	Yes ^a
Environmental Impairment Liability	\$1,000,000	\$2,000,000	Yes ^a
Boiler and Machinery (to include business interruption)	\$1,000,000	N/A	No
Property	Full Value	N/A	Yes ^a

^a The State and the Department are to be included as additional insureds.

Source: Department records.

To assess whether the Department ensured that private correctional facility providers obtained and maintained required insurance coverages, we examined certificates of insurance for the three private correctional facility providers and found that during the 20-month period July 2018 through February 2020:

- GEO had not obtained and maintained the minimum per occurrence coverage or the minimum aggregate coverage amounts for general liability, employee dishonesty, professional liability, umbrella liability (including premises liability), contractual liability, and property. Additionally, the general liability insurance policy did not include fire or legal liability coverage and the environmental impairment liability did not name the State and Department as additional insureds.
- MTC had not obtained and maintained the minimum per occurrence coverage or the minimum aggregate coverage amounts for general liability, civil rights liability, vehicle liability, employee dishonesty, workers' compensation, professional liability, umbrella liability (including premises liability), contractual liability, environmental impairment liability, and property for periods ranging

⁸ Section 957.04(1)(b), Florida Statutes.

from 3 to 20 months. Additionally, for the 17 months the general liability insurance policy was in effect, the policy did not include fire or legal liability coverage nor name the State and Department as additional insureds.

- CoreCivic had not obtained and maintained the minimum per occurrence coverage or the minimum aggregate coverage amounts for civil rights liability, employee dishonesty, professional liability, contractual liability, environmental impairment liability, boiler and machinery, and property for periods ranging from 11 to 20 months. Additionally, the general liability insurance policy did not include fire or legal liability coverage or list the State and Department as additional insureds, the umbrella liability policy did not include premises liability coverage, and the boiler and machinery liability policy did not include business interruption coverage.

In response to our audit inquiry, Bureau management indicated that the Bureau's review of insurance coverages did not include a comparison of the providers' certificates of insurance to contract requirements.

Appropriate insurance coverage mitigates the Department's risk of loss in the event of an occurrence causing injury to a person or damage to property.

Recommendation: We recommend that Bureau management enhance insurance review processes to verify that private correctional facility providers obtain and maintain required insurance coverages.

Finding 7: Inmate Bank and Commissary Financial Statements

Bureau contracts required providers to provide the Bureau audited financial statements that clearly distinguished between Inmate Bank and Privately Operated Institutions Inmate Welfare Trust Fund (Commissary) accounts no later than January 31 or October 1 each year, depending on the provider's fiscal year. Pursuant to State law⁹ and contract terms, providers are to maintain Inmate Bank funds separate and apart from other funds, and Commissary account funds (e.g., net proceeds derived from operating inmate canteens, vending machines used primarily by inmates, receipts from telephone commissions, interest earned on the account) are to be expended only pursuant to legislative appropriation.

To ensure that audited financial statements are timely received and appropriately reviewed and corrective actions are taken for applicable findings, an effective review process is essential. Such a review process should include written policies and procedures and checklists to facilitate review of the financial statements; a method to track financial statements that are due, received, and reviewed; documentation of Bureau actions to obtain financial statements not received; and required actions to follow up on noncompliance or other auditor-noted deficiencies.

As part of our audit, we interviewed Bureau management, evaluated Bureau controls, and examined Bureau records for 14 (7 Inmate Bank and 7 Commissary) of the 28 financial statements due to and received by the Bureau during the period July 2018 through February 2020. Our audit procedures found that the Bureau had not established policies and procedures for reviewing Inmate Bank and Commissary financial statements. The absence of established policies and procedures may have contributed to the other issues noted on audit, specifically:

⁹ Section 945.215, Florida Statutes.

- Bureau records did not evidence review for any of the 14 selected financial statements.
- For 9 (5 Inmate Bank and 4 Commissary) of the 14 selected financial statements, Bureau staff did not record the date the financial statements were received, thus inhibiting the Bureau's ability to demonstrate that the statements were timely received from the providers.
- For the 2 Inmate Bank and 3 Commissary financial statements that Bureau staff recorded the dates received, one provider submitted an Inmate Bank and a Commissary financial statement 57 days after the October 1 due date.

According to Bureau management, staff turnover contributed to the Bureau not documenting when certain financial statements were received or reviewed.

Absent a documented review process, including applicable policies and procedures, the Department's assurance that audited provider Inmate Bank and Commissary financial statements are timely received and appropriately reviewed is minimized and noncompliance or deficiencies noted by the auditors may not be promptly followed up on and resolved.

Recommendation: We recommend that Bureau management establish an effective audited financial statement review process that includes written policies and procedures and checklists to facilitate review of the financial statements; a method to track financial statements that are due, received, and reviewed; documentation of Bureau actions to obtain financial statements not received; and actions to follow-up on noncompliance or other deficiencies noted by auditors.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from April 2020 through September 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Department of Management Services (Department) focused on the oversight of private correctional facilities. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, and interviewed Department personnel to obtain an understanding of the oversight of private correctional facilities.
- Obtained an understanding of selected Department information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general IT controls for the Private Prison Accountability Log and Management System were in place, and tested the effectiveness of the selected controls.
- Examined the seven private correctional facility provider contracts in effect during the period July 2018 through February 2020 and related records to determine whether Department contract procurements, extensions, renewals, and amendments made over the life of each contract, and the contract documents, were in accordance with Chapter 957, Florida Statutes, and other applicable laws, rules, and regulations, and whether the providers obtained and maintained adequate insurance coverages.
- From the population of 138 contract payments, totaling \$246,494,364, made to private correctional facility providers during the period July 2018 through February 2020, examined 14 selected contract payments (2 from each of the 7 correctional facilities), totaling \$25,769,515, to determine whether the payments were made in accordance with contract provisions and applicable laws, rules, and regulations.

- From the population of 28 (14 Inmate Bank and 14 Commissary) audited financial statements received by the Department from private correctional facility providers during the period July 2018 through February 2020, examined 14 (7 Inmate Bank and 7 Commissary) selected audited financial statements to determine whether the audited financial statements were in accordance with contract provisions and timely received, appropriately reviewed, and followed up on, if necessary, for noted findings.
- Examined Department records for the 7 private correctional facilities under contract with the Department during the period July 2018 through February 2020 to determine whether the providers maintained American Correctional Association accreditation for the facilities.
- Examined Department records for 14 (2 from each of the 7 private correctional facilities) of the 140 on-site monthly monitoring engagements conducted by the Department during the period July 2018 through February 2020 to determine whether the engagements were completed in accordance with Chapter 957, Florida Statutes, applicable policies and procedures, and contract provisions.
- Examined Department records for 7 (1 from each of the 7 private correctional facilities) of the 42 quarterly monitoring engagements conducted by the Department during the period July 2018 through February 2020 to determine whether the engagements were completed in accordance with Chapter 957, Florida Statutes, applicable policies and procedures, and contract provisions.
- Examined Department monitoring records for all 34 monitoring engagements conducted by the on-site nursing consultant during the period July 2018 through February 2020 to determine whether the Bureau had established policies and procedures for monitoring the consultant for compliance with applicable contract provisions, laws, and regulations, and a mechanism to track Bureau review of consultant completed health care CPI monitoring tools and executive summaries.
- Examined Department records for 9 of the 34 monitoring engagements conducted by the on-site nursing consultant during the period July 2018 through February 2020 to determine whether the engagements were completed in accordance with Chapter 957, Florida Statutes, applicable policies and procedures, and contract provisions.
- Examined Department records for 7 (1 from each of the 7 private correctional facilities) of the 28 maintenance monitoring engagements conducted by the Department during the period July 2018 through February 2020 to determine whether the engagements were completed in accordance with Chapter 957, Florida Statutes, applicable policies and procedures, and contract provisions.
- From the population of 138 invoices and corresponding monthly Position Control Logs submitted by providers to the Bureau during the period July 2018 through February 2020, examined 14 selected invoices and corresponding monthly Position Control Logs (2 from each of the 7 private correctional facilities) to determine whether facility staffing levels were in accordance with applicable contract provisions.
- From the population of 6,253 incident reports uploaded by providers to the Department of Corrections Management Information Notification System during the period July 2018 through February 2020, examined 60 selected incident reports to determine whether the reports were completed in accordance with applicable contract provisions and policies and procedures.
- Examined all notice letters issued by the Department during the period July 2017 through February 2020 that included adjustments to provider compensation to determine whether the adjustments were appropriately assessed in accordance with applicable laws, contract provisions, and other guidelines.

- Analyzed workers' compensation reports for injuries that occurred at the seven private correctional facilities during the period July 2018 through February 2020 to determine whether incidents were reported in accordance with Department policy.
- Analyzed Position Control Log data for the seven private correctional facilities for the period July 2018 through February 2020 to determine whether position vacancies and position vacancy days were accounted for in accordance with contract terms.
- Analyzed monthly Man-Day Billing reports for the seven private correctional facilities for the period July 2018 through February 2020 to determine whether private correctional facility occupancy rates did not exceed capacity and whether total private correctional facility inmate counts were adjusted to alter per diem rates.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

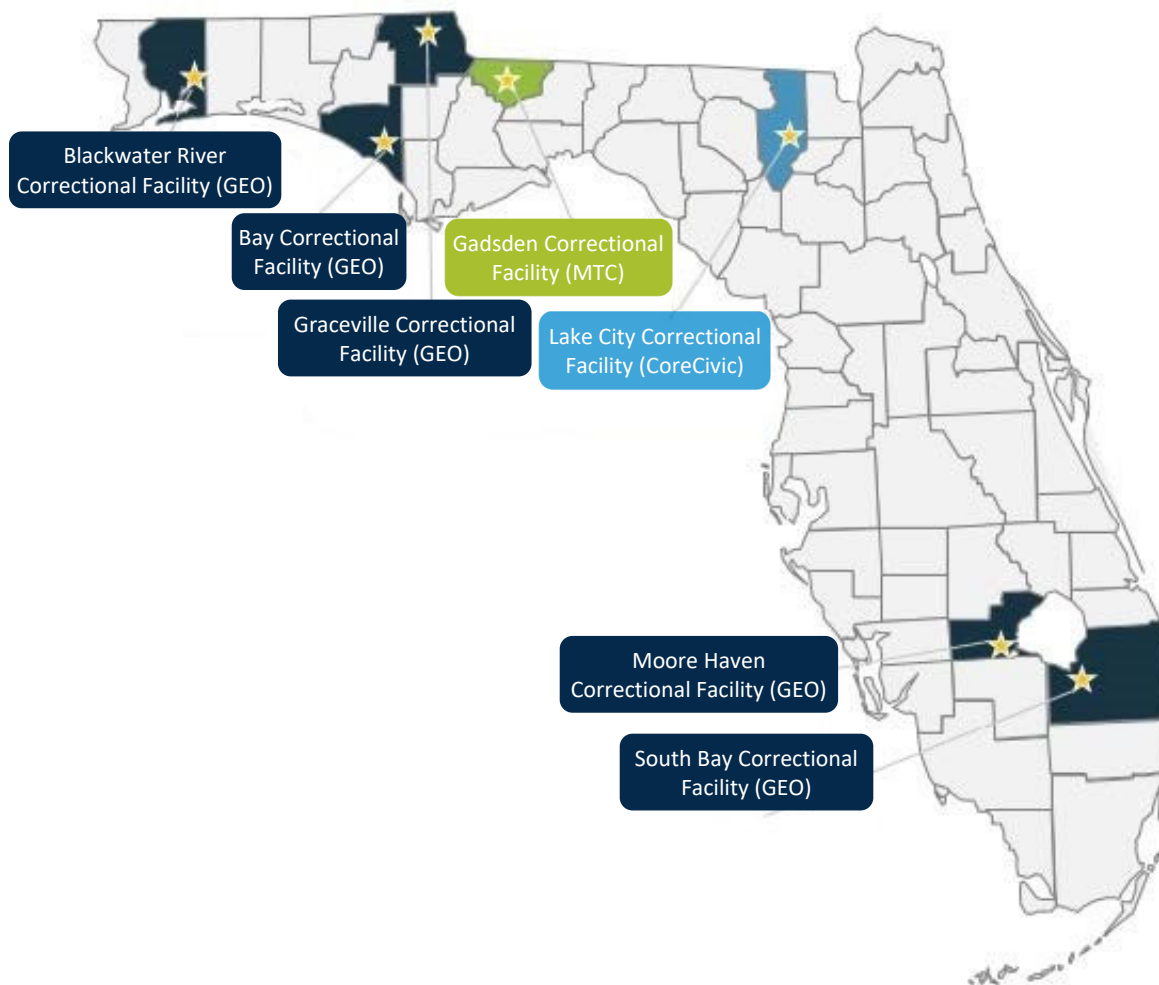
Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

EXHIBIT A

PRIVATE CORRECTIONAL FACILITY LOCATIONS AND DEMOGRAPHICS



Source: Department records.

Provider	Correctional Facility	Capacity	Population Gender	Adult or Youthful
CoreCivic	Lake City Youthful Offender Facility	894	Male	Youthful Offenders (Age 18 – 24)
GEO	Bay Correctional Facility	985	Male	Adult
	Blackwater River Correctional Facility	2,000	Male	Adult
	Graceville Correctional Facility	1,884	Male	Adult
	Moore Haven Correctional Facility	985	Male	Adult
	South Bay Correctional Facility	1,948	Male	Adult
MTC	Gadsden Correctional Facility	1,544	Female	Adult

Source: DOC Web site, April 2022.

MANAGEMENT'S RESPONSE



4050 Esplanade Way
Tallahassee, FL 32399
850-488-2786

Ron DeSantis, Governor
J. Todd Inman, Secretary

June 24, 2022

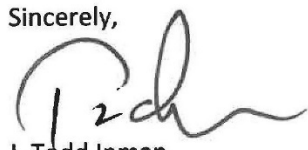
Ms. Sherrill F. Norman, CPA
Auditor General
Suite G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Pursuant to subsection 11.45(4)(d), Florida Statutes, enclosed is our response to your operational audit of oversight of private correctional facilities. Our responses correspond with the findings and recommendations contained in the preliminary and tentative findings.

If further information is needed concerning our response, please contact Sarah Beth Hall, Inspector General, at 850-488-5285.

Sincerely,



J. Todd Inman
Secretary

JTI/mc

Enclosure

cc: Patrick Gillespie, Deputy Secretary of Business Operations
Raymond Spaulding, Director of Specialized Services
Sarah Beth Hall, Inspector General

Management Responses to Preliminary and Tentative Findings

Finding 1: Provider Monitoring
<p>Finding: The Bureau of Private Prison Monitoring (Bureau) did not always issue written notices of noncompliance or document the basis for not issuing notices of noncompliance to private prison providers when continued noncompliance was identified by Bureau monitoring activities. Additionally, Department controls over the issuance of notice letters and adjustment of private correctional facility provider compensation need enhancement to ensure that Department records evidence the basis for issuing or not issuing notice letters and applying provider compensation adjustments.</p>
<p>Recommendation: We recommend that, when warranted by monitoring findings, the Department issue written notices of noncompliance to private correctional facility providers. Further, to promote transparency and ensure consistent monitoring and enforcement of contract terms, we recommend that Department management enhance policies and procedures and retain documentation evidencing Department decisions.</p>
<p>Management Response (Planned Corrective Action): Develop an electronic routing process that identifies all reviewers for notices of non-performance and the assessment of financial consequences, captures each reviewer's approval/disapproval and the reason to disapprove.</p>

Finding 2: Facility Maintenance Monitoring
<p>Finding: The Bureau had not established policies and procedures for monitoring provider maintenance activities at the private correctional facilities and Bureau monitoring tools were not always completed, Bureau monitoring reports did not evidence supervisory review, written notice of noncompliance was not given to providers, and Bureau records did not evidence that provider deficiencies were timely followed up on or corrective actions were timely implemented.</p>
<p>Recommendation: We recommend that Bureau management continue efforts to establish facility maintenance monitoring policies and procedures and ensure that:</p> <ul style="list-style-type: none"> • Maintenance monitoring is routinely conducted within reasonable time frames. • Monitoring tools are completed for all engagements. • Monitoring reports are subject to supervisory review and, when appropriate, written notices of noncompliance are provided to providers. • Follow-up is timely conducted to ensure identified deficiencies are promptly corrected.
<p>Management Response (Planned Corrective Action):</p> <ul style="list-style-type: none"> • A schedule is established and implemented. Since the position was filled, a schedule has been established to conduct the first monitoring visit at the seven facilities. • Maintenance Contract Performance Indicator (CPI) monitoring was added to the Operations Manual in 2021. The individual assigned to the Facility Maintenance Monitor (FMM) position is required to prepare, implement and report CPI monitoring in accordance with the Operations Manual.

- The supervisor's review is captured on the monitoring report. Indicators rated as not compliant are reviewed by the FMM and the bureau chief. Written notices of non-performance will be issued to the providers to address performance issues following legal review.
- The FMM monitoring schedule will ensure outstanding/recurring performance issues are timely identified and will result in a notice to assess financial consequences.

**Finding 3:
Monitoring of Health Care Services**

Finding: Bureau policies and procedures for, and documentation of, review of the on-site nursing consultant's activities need improvement to demonstrate that health care monitoring services at private correctional facilities are provided in accordance with contract terms. Additionally, Bureau records did not always evidence that appropriate actions were taken in response to the consultant's findings.

Recommendation: We recommend that Bureau management establish policies and procedures for assessing the on-site nursing consultant's satisfaction of contract deliverables and a mechanism to track the Bureau's review of the consultant's health care CPI monitoring tool and executive summary. Additionally, we recommend that Bureau management enhance controls to ensure that:

- Bureau records evidence review of consultant health care CPI monitoring tools and executive summaries.
- Bureau records evidence that appropriate actions are taken in response to the consultant's findings.
- Health care employee license searches are conducted in accordance with contract terms.
- Consultant health care CPI monitoring tools and executive summaries are timely submitted.

Management Response (Planned Corrective Action):

- Health Care CPI monitoring was added to the Operations Manual in 2021. The individual assigned to conduct health care monitoring is required to prepare, implement and report CPI monitoring in accordance with the Operations Manual.
- Review of the Health Care Contract Performance Indicator (CPI) by the Respect supervisor and Department supervisors was added to the Health Care CPI tool for the 2021-22FY reports.
- Indicators rated as not compliant will be reviewed by the management review specialist and the bureau chief. Written notices of non-performance will be issued to the providers to address all performance issues.
- Require Respect to conduct the license review on a quarterly basis versus when they conduct the on-site Health Care CPI review.
- Develop a template for Respect to use for the monitoring schedule that will automatically input the report submission date. Schedule Outlook calendar invitations for the report submission.

Finding 4: Monitoring of Facility Staffing
Finding: Bureau monitoring of private correctional facility staffing needs enhancement to ensure that appropriate and qualified staff are assigned to provide for and maintain the security, control, custody, and supervision of inmates.
Recommendation: We recommend that Bureau management enhance CPI tools and establish facility staffing monitoring policies and procedures. Such policies and procedures should specify the manner in which Bureau monitoring activities are to be conducted and documented.
Management Response (Planned Corrective Action): The methodology for indicators that evaluate the qualifications of staffing will be updated to include that the detail of the review is documented in the notes.

Finding 5: Incident Reporting
Finding: Bureau efforts to review and verify the accuracy and completeness of private correctional facility provider incident reporting need enhancement to ensure that incidents are correctly reported and appropriately handled in accordance with applicable contract provisions and Bureau policies and procedures.
Recommendation: We recommend that Department management review and verify the accuracy and completeness of incident report information and take appropriate actions to evaluate provider actions. Such review, verification, and evaluation efforts should be documented in Department records.
Management Response (Planned Corrective Action): Due to limited resources, a sample of incidents reports will be reviewed to ensure accuracy and completeness of incident report information. The methodology will be updated to ensure the review is documented on the CPI.

Finding 6: Insurance Coverages
Finding: The Bureau did not ensure that private correctional facility providers obtained and maintained required insurance coverages.
Recommendation: We recommend that Bureau management enhance insurance review processes to verify that private correctional facility providers obtain and maintain required insurance coverages.
Management Response (Planned Corrective Action): Develop a checklist of insurance requirements for each contract to review against the provider's insurance certificates or renewal certificates.

Finding 7: Inmate Bank and Commissary Financial Statements
Finding: Bureau controls need improvement to ensure that audited provider Inmate Bank and Commissary financial statements are timely received and appropriately reviewed.
Recommendation: We recommend that Bureau management establish an effective audited financial statement review process that includes written policies and procedures and checklists to facilitate review of the financial statements; a method to track financial statements that are due, received, and reviewed; documentation of Bureau actions to obtain financial statements not received; and actions to follow-up on noncompliance or other deficiencies noted by auditors.
Management Response (Planned Corrective Action): Develop policy and procedure or a checklist for the tracking and review of the financial statements. Consider outsourcing the review the financial statements to an accounting firm (PPM does not currently employ a CPA).

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SPB 7018

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: State-Operated Institutions Inmate Welfare Trust Fund

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes		Pre-meeting

I. Summary:

SPB 7018 amends s. 945.215, F.S., adding additional funding sources from which all such proceeds must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or the General Revenue Fund. These additional funding sources include:

- Copayments made by inmates for nonemergency visits to a health care provider;¹
- Any proceeds obtained through the collection of damages;² and
- Cost of incarceration liens.³

Additionally, the bill increases the maximum amount of funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund from \$2.5 million to \$32 million.

The bill also authorizes the Department of Corrections (DOC) to expend funds from the Trust Fund to be used at correctional facilities to include fixed capital outlays for educational facilities.

The bill amends s. 945.6037, F.S., to state that the proceeds of each copayment must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or into the General Revenue Fund.

The bill reenacts ss. 944.516(5), 944.73(2), and 946.002(4)(b), F.S., relating to the disposition of unexpended trust funds, the State-Operated Institutions Inmate Welfare Trust Fund, and forfeiture of a prisoner's earned funds.

The bill takes effect July 1, 2023.

¹ Section 945.6037, F.S.

² Section 960.293(2), F.S.

³ Section 960.292(2), F.S.

II. Present Situation:

State-Operated Institutions Inmate Welfare Trust Fund

In 2020, the Legislature created the Trust Fund to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.⁴ Certain proceeds from specified revenue streams or donations related to inmates in the DOC are deposited into the Trust Fund; however, such deposits may not exceed a total of \$2.5 million in any fiscal year.⁵ Any funds collected in excess of \$2.5 million are deposited into the General Revenue Fund.

Funds from the following sources must be deposited into the Trust Fund, if deposits do not exceed \$2.5 million in any fiscal year:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities;⁶
- Proceeds from contracted telephone commissions;⁷
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization;⁸ and
- All proceeds from the following services:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.⁹

Proceeds from the above-listed sources total approximately \$35 million per year, and all but \$2.5 million is deposited into the General Revenue Fund.¹⁰

Funds in the Trust Fund may only be used to provide for or to operate specified programming at correctional facilities operated by the DOC, which includes:

- Literacy programs, vocational training programs, and educational programs;
- Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries;
- Inmates substance abuse treatment programs and transition and life skills training programs;
- The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates;
- The purchase, rental, maintenance, or repair of recreation and wellness equipment; and

⁴ Chapter 2020-97, L.O.F.

⁵ Section 945.215(2)(b), F.S.

⁶ Section 945.72(1)(a), F.S. Funds necessary to purchase items for resale at inmate canteens and vending machines are required to be deposited into local bank accounts designated by the DOC.

⁷ Section 945.215(1)(b), F.S.

⁸ Section 945.215(1)(c), F.S. However, the DOC may not accept any donation from, or on behalf of, any individual inmate.

⁹ Section 945.215(1)(d), F.S.

¹⁰ Department of Corrections, *2022 Agency Legislative Bill Analysis for SB 636*, p. 2, (Nov. 16, 2021) (on file with the Senate Committee on Criminal Justice).

- The purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1)(b), F.S.¹¹

Trust Fund monies may only be expended pursuant to a legislative appropriation.¹² As required by the Florida Constitution, the Trust Fund will terminate on July 1, 2024, unless terminated sooner or recreated.¹³ The Legislature must review the Trust Fund before its scheduled termination.

Trust Fund Expenditures

In Fiscal Year 2020-2021, the DOC expended funds from the Trust Fund as follows:¹⁴

Program	Amount
Literacy and Education	\$202,638
Vocational Programs	\$430,977
Chaplaincy	\$63,636
Library Services	\$38,210
Substance Use Treatment	\$244,744
Wellness Programs	\$1,297,808
Work-Release Program Equipment	\$21,987

Literacy and Education

The DOC funded 14 OPS positions to provide support to struggling readers and English Language Learners.¹⁵ The DOC additionally procured the following classroom resources:

- Teacher's kits including materials to prepare and deliver research-based instruction lessons;
- Skill-based lessons to teach students fundamental reading strategies; and
- Assessment-driven software programs to provide additional instruction on specific skills that inhibit students' reading success.¹⁶

Vocational Programs

The DOC procured training simulators to prepare inmates for employment in high-demand careers, such as commercial driving and heavy equipment operations.¹⁷

Chaplaincy and Library Services

For chaplaincy services, the DOC upgraded chapel sound systems and procured electronic and audio-visual equipment.¹⁸ For libraries, the DOC enhanced library services by obtaining

¹¹ Section 945.215(2)(c), F.S.

¹² Section 945.215(2)(d), F.S.

¹³ FLA. CONST. art. III, s. 19(f).

¹⁴ Department of Corrections, *State-Operated Institutions Inmate Welfare Trust Fund Report*, (Oct. 1, 2021) (on file with the Senate Committee on Criminal Justice). The DOC remitted \$200,000 for the General Revenue service charge.

¹⁵ *Id.* at pg. 1.

¹⁶ *Id.* at pg. 2.

¹⁷ *Id.*

¹⁸ *Id.*

literature enhancements to address the aging library collection and World Book Encyclopedia sets.

Substance Use Treatment

The DOC's in-prison substance use treatment programs utilized Trust Fund monies to enhance existing programing for the following substance use programs:

- Residential Therapeutic Community;
- Intensive Outpatient Program; and
- Outpatient programs.¹⁹

Additionally, the DOC procured interactive journals for use in the Administrative Management Unit at the Jefferson Correctional Institution, Short Sentence correctional institutions and units (SSCIs), and re-entry centers statewide.²⁰ The SSCIs also received composition notebooks, electronic and audio-visual equipment for dorms, paint for murals, and computers for inmate use. Supplies to facilitate community model training were also purchased to support Peer-to-Peer program dorms statewide, as well as SSCIs.²¹

Wellness Programs

To support the 34 wellness education specialist positions appropriated during the 2020 Session, funds from the Trust Fund were utilized to equip wellness programs statewide, including:

- Building materials to repair and enhance recreation pavilions, running/walking tracks, and recreations fields;
- Wellness education material and equipment/furniture for wellness education programs;
- An OPS statewide wellness coordinator position to oversee newly established wellness education programs statewide;
- Board games, such as checkers, chess, and scrabble, for recreation and to be used during family visitation; and
- Recreation and sports equipment.²²

Work-Release Program Equipment

The DOC purchased gender-appropriate bicycles in various sizes for inmates traveling to and from work-release employment.²³

Nonemergency Health Care – Inmate Copayments

Section 945.6037, F.S., provides that for each nonemergency visit by an inmate to a health care provider initiated by the inmate, the inmate must make a copayment of \$5. The copayment for an inmate's health care must be deducted from any existing balance in the inmate's bank account.²⁴

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at pgs. 2-3.

²³ *Id.* at pg. 3.

²⁴ Section 945.6037(1)(a), F.S.

Existing law requires that the proceeds of each copayment must be deposited in the General Revenue Fund.²⁵

III. Effect of Proposed Changes:

The bill amends s. 945.215, F.S., adding additional funding sources from which all such proceeds must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or the General Revenue Fund. These additional funding sources include:

- Copayments made by inmates for nonemergency visits to a health care provider;²⁶
 - For each nonemergency visit by an inmate to a health care provider that is initiated by the inmate, he or she must pay a copayment of \$5.²⁷
- Any proceeds obtained through the collection of damages;²⁸ and
 - Upon conviction, a convicted offender is liable to the state and its local subdivisions for damages and losses for incarceration and other correctional costs.²⁹
- Cost of incarceration liens.³⁰
 - Upon motion by the state or upon petition of the local subdivision, crime victim, or aggrieved party, or on its own motion, the court in which the convicted offender is convicted shall enter civil restitution lien orders in favor of crime victims, the state, its local subdivisions, and other aggrieved parties.³¹

Additionally, the bill increases the maximum amount of funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund from \$2.5 million to \$32 million.

The bill also authorizes the DOC to expend funds from the Trust Fund to be used at correctional facilities to include fixed capital outlays for educational facilities.

The bill amends s. 945.6037, F.S., to state that the proceeds of each copayment must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or into the General Revenue Fund.

The bill reenacts ss. 944.516(5), 944.73(2), and 946.002(4)(b), F.S., relating to the disposition of unexpended trust funds, the State-Operated Institutions Inmate Welfare Trust Fund, and forfeiture of a prisoner's earned funds.

The bill takes effect July 1, 2023.

²⁵ Section 945.6037(1)(c), F.S.

²⁶ Section 945.6037, F.S.

²⁷ *Id.*

²⁸ Section 960.293(2), F.S.

²⁹ Section 960.293(2)(a)-(b), F.S., states if the conviction is for a capital or life felony, the offender is liable for incarceration costs and other correctional costs in the liquidated damage amount of \$250,000. If the conviction is for an offense other than a capital or life felony, a liquidated damage amount of \$50 per day of the convicted offender's sentence shall be assessed against the convicted offender and in favor of the state or its local subdivisions. Damages shall be based upon the length of the sentence imposed by the court at the time of sentencing.

³⁰ Section 960.292(2), F.S.

³¹ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill increases the amount of funds that may be redirected from the General Revenue Fund to the State-Operated Institutions Inmate Welfare Trust Fund from \$2.5 million in any fiscal year to \$32 million per fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 945.215 and 945.6037.

This bill reenacts the following sections of the Florida Statutes: 944.516, 944.73, and 946.002.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Criminal Justice

591-02116B-23

20237018pb

A bill to be entitled

An act relating to the inmate welfare trust fund; amending s. 945.215, F.S.; adding additional funding sources from which all proceeds must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or the General Revenue Fund; increasing the maximum amount of funds which the State-Operated Institutions Inmate Welfare Trust Fund may not exceed in any fiscal year; adding to the purposes for which the trust fund must be used at correctional facilities to include fixed capital outlays for educational facilities; amending s. 945.6037, F.S.; requiring that the proceeds from nonemergency health care visit copayments be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or into the General Revenue Fund; reenacting ss. 944.516(5), 944.73(2), and 946.002(4)(b), F.S., relating to the disposition of unexpended trust funds, the State-Operated Institutions Inmate Welfare Trust Fund, and forfeiture of a prisoner's earned funds, respectively, to incorporate the amendment made to s. 945.215, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) and paragraphs (b) and (c) of subsection (2) of section 945.215, Florida Statutes, are amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20237018pb

(1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS.—

(a) The net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into the General Revenue Fund; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

(b) All proceeds from contracted telephone commissions must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into the General Revenue Fund. The department shall develop and update, as necessary, administrative procedures to verify that:

1. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

2. Persons who accept collect calls from inmates are charged the contracted rate; and

3. The department receives the contracted telephone commissions.

(c) Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into the General Revenue Fund; however, the department may ~~shall~~ not accept any donation from, or on behalf of, any individual inmate.

(d) All proceeds from the following sources must be

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20237018pb

deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2) (b), into the General Revenue Fund:

1. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
2. Disciplinary fines imposed against inmates;
3. Forfeitures of inmate earnings; ~~and~~
4. Unexpended balances in individual inmate trust fund accounts of less than \$1;

5. Copayments made by inmates for nonemergency visits to a health care provider pursuant to s. 945.6037;

6. Any proceeds obtained through the collection of damages pursuant to s. 960.293(2); and

7. Cost of incarceration liens pursuant to s. 960.292(2).

(e) Items for resale at inmate canteens and vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.

(f) Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to an amount set by the Secretary of Corrections, not to exceed \$100, to be expended for personal use on canteen and vending machine items.

(2) STATE-OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.—

(b) Deposits into the trust fund may not exceed a total of \$32 ~~\$2.5~~ million in any fiscal year. Any proceeds or funds that would cause deposits into the trust fund to exceed this limit

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must be deposited into the General Revenue Fund.

(c) Funds in the trust fund shall be used exclusively to provide for or operate any of the following at correctional facilities operated by the department:

1. Literacy programs, vocational training programs, and educational programs, which includes fixed capital outlays for educational facilities.

2. Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.

3. Inmate substance abuse treatment programs and transition and life skills training programs.

4. The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates.

5. The purchase, rental, maintenance, or repair of recreation and wellness equipment.

6. The purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1) (b).

Section 2. Subsection (1) of section 945.6037, Florida Statutes, is amended to read:

945.6037 Nonemergency health care; inmate copayments.—

(1) (a) For each nonemergency visit by an inmate to a health care provider which is initiated by the inmate, the inmate must make a copayment of \$5. A copayment may not be charged for the required initial medical history and physical examination of the inmate.

(b) The copayment for an inmate's health care must be

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deducted from any existing balance in the inmate's bank account.
If the account balance is insufficient to cover the copayment,
50 percent of each deposit to the account must be withheld until
the total amount owed has been paid.

(c) The proceeds of each copayment must be deposited into
the State-Operated Institutions Inmate Welfare Trust Fund
pursuant to s. 945.215(1)(d) or into ~~in~~ the General Revenue Fund
as provided in s. 945.215(2)(b).

(d) The department may waive all or part of the copayment
for an inmate's visit to a health care provider if the health
care:

1. Is provided in connection with an extraordinary event
that could not reasonably be foreseen, such as a disturbance or
a natural disaster;

2. Is an institutionwide health care measure that is
necessary to address the spread of specific infectious or
contagious diseases;

3. Is provided under a contractual obligation that is
established under the Interstate Corrections Compact or under an
agreement with another jurisdiction which precludes assessing
such a copayment;

4. Was initiated by the health care provider or consists of
routine follow-up ~~followup~~ care;

5. Is initiated by the inmate to voluntarily request an HIV
test;

6. Produces an outcome that requires medical action to
protect staff or inmates from a communicable disease; or

7. When the inmate is referred to mental health evaluation
or treatment by a correctional officer, correctional probation

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officer, or other person supervising an inmate worker.

Section 3. For the purpose of incorporating the amendment
made by this act to section 945.215, Florida Statutes, in a
reference thereto, subsection (5) of section 944.516, Florida
Statutes, is reenacted to read:

944.516 Money or other property received for personal use
or benefit of inmate; deposit; disposition of unclaimed trust
funds.—The Department of Corrections shall protect the financial
interest of the state with respect to claims which the state may
have against inmates in state institutions under its supervision
and control and shall administer money and other property
received for the personal benefit of such inmates. In carrying
out the provisions of this section, the department may delegate
any of its enumerated powers and duties affecting inmates of an
institution to the warden or regional director who shall
personally, or through designated employees of his or her
personal staff under his or her direct supervision, exercise
such powers or perform such duties.

(5) When an inmate is transferred between department
facilities, is released from the custody of the department,
dies, or escapes during incarceration, and the inmate has an
unexpended inmate trust fund account balance of less than \$1,
that balance shall be transferred to the State-Operated
Institutions Inmate Welfare Trust Fund or, as provided in s.
945.215(2)(b), into the General Revenue Fund.

Section 4. For the purpose of incorporating the amendment
made by this act to section 945.215, Florida Statutes, in a
reference thereto, subsection (2) of section 944.73, Florida
Statutes, is reenacted to read:

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175 944.73 State-Operated Institutions Inmate Welfare Trust
176 Fund.—

177 (2) Moneys shall be deposited and the expenditures made
178 from the trust fund as provided in s. 945.215.

179 Section 5. For the purpose of incorporating the amendment
180 made by this act to section 945.215, Florida Statutes, in a
181 reference thereto, paragraph (b) of subsection (4) of section
182 946.002, Florida Statutes, is reenacted to read:

183 946.002 Requirement of labor; compensation; amount;
184 crediting of account of prisoner; forfeiture; civil rights;
185 prisoner not employee or entitled to compensation insurance
186 benefits.—

187 (4)

188 (b) When any prisoner escapes, the department shall
189 determine what portion of the prisoner's earnings shall be
190 forfeited, and such forfeiture shall be deposited in the State
191 Treasury in the State-Operated Institutions Inmate Welfare Trust
192 Fund of the department or, as provided in s. 945.215(2)(b), into
193 the General Revenue Fund.

194 Section 6. This act shall take effect July 1, 2023.



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 636
BILL TITLE:	State-Operated Institutions Inmate Welfare Trust Fund
BILL SPONSOR:	Senator Perry
EFFECTIVE DATE:	July 1, 2022

<u>COMMITTEES OF REFERENCE</u>
1)
2)
3)
4)
5)

<u>CURRENT COMMITTEE</u>

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	SB 1116, SB 1118
SPONSOR:	
YEAR:	2020
LAST ACTION:	Signed into law

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 433
SPONSOR:	Representative Drake

Is this bill part of an agency package?
Yes

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	November 16, 2021
LEAD AGENCY ANALYST:	Patrick Mahoney and Jennifer Rechichi
ADDITIONAL ANALYST(S):	Jamie Newberry
LEGAL ANALYST:	Gretchen Brantley
FISCAL ANALYST:	Greg Holcomb

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends s. 945.215(2)(b), Florida Statutes, to authorize up to \$30 million of net proceeds/funds per s. 945.215(1), F.S., and shall be collected by the Florida Department of Corrections (FDC or Department) to be deposited into the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) for the benefit and welfare of inmates incarcerated in state-operated institutions.

The bill also amends s. 945.215(2)(c), F.S., to allow funds from the Trust Fund to provide for environmental wellness upgrades to facilities which would improve environmental conditions of the facilities for the benefit of inmates.

The bill will enhance FDC's resources to improve inmate health and well-being, decrease inmate idleness and improve safety within Florida's prisons, enhance environmental conditions within facilities, and reduce recidivism. Studies have shown that inmates who are provided with programming such as education, vocation, and substance use along with wellness opportunities are better suited in an incarcerated environment with far less instances of inmate on inmate violence and are more likely to return to their communities upon release as productive citizens who engage in positive lifestyle habits.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Section 945.215(1), F.S., allows for net proceeds/funds to be collected by the Department from the following:

- Canteens and vending machines used by inmates
- Contracted telephone commissions (fees)
- Medical copayments
- Confiscated and liquidated contraband
- Forfeitures of inmate earnings
- Unexpended balances in individual inmate trust fund accounts of less than \$1

Proceeds from the items outlined in s. 945.215(1), F.S., total approximately \$35 million annually and are deposited into the General Revenue Fund. However, under s. 945.215(2)(b), F.S., deposits to the Trust Fund are capped at \$2.5 million. This fund is also currently assessed an 8% fee for the General Revenue Fund Service Charge.

Section 945.215(2)(c), F.S., authorizes funds in the Trust Fund shall be used exclusively for the following purposes:

- To provide literacy programs, vocational training programs, and educational programs;
- To operate and enhance inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries;
- To provide inmate substance abuse treatment programs, transition and life skills training programs;
- To provide programs that target an inmate's individual criminogenic needs (i.e., risk factors)
- To provide for the purchase, rental, maintenance or repair of electronic and audio-visual equipment, media, services and programming used by inmates;
- To provide for the purchase, rental, maintenance or repair of recreation and wellness equipment; or
- To provide for the purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized in s. 945.091(1)(b), F.S.

The Trust Fund enables the Department to purchase items to improve inmate health and well-being, decrease inmate idleness and improve safety within Florida's prisons, and reduce recidivism. The Trust Fund expands vital efforts to engage the incarcerated population in programming opportunities such as education, vocation, and substance use,

along with the opportunity to participate in recreation and wellness activities preparing them to return to their communities with positive lifestyle habits.

The following information highlights how the Department invested the resources provided by the Trust Fund during FY 20-21.

Literacy and Education Programming

To provide support to struggling readers and English Language Learners (ELL), 14 OPS Academic Teacher positions focused on Literacy/ELL were funded. Additionally, the following classroom resources were procured to enhance reading and ELL instruction:

- Teacher's Kits including materials to prepare and deliver research-based direct instruction lessons to struggling readers and ELL
- Skill-based lessons to teach students fundamental reading strategies
- Assessment-driven software programs to provide additional instruction on specific skills that inhibit students' reading success

Vocational Programs

Training simulators to prepare inmates for employment in high-demand careers such as commercial driving and heavy equipment operations were procured.

Inmate Chapels and Libraries

Chaplaincy Services provide the opportunity for inmates to participate in religious activities and programs. The following were procured to enhance chaplaincy programs:

- Upgrades to chapel sound systems
- Electronic and audio-visual equipment

The Department provides inmates with access to comprehensive library services to include current print and non-print materials, reference services, reading guidance, educational and cultural programming, extension services for inmates unable to visit the library, and resources and services to support activities of other education and treatment programs. The following additional resources were procured to enhance library services:

- Literature enhancements to address aging library collection
- World Book Encyclopedia sets

Substance Use Treatment Programs

Department operated in-prison Substance Use Treatment programs utilized the Trust Fund to enhance existing programming for the following substance use programs:

- Residential Therapeutic Community
- Intensive Outpatient Program
- Outpatient Programs

Interactive journals were also procured for use in the Administrative Management Unit at Jefferson CI, Short Sentence Correctional Institutions/Units (SSCIs) and Re-Entry Centers statewide. SSCIs also received composition notebooks, electronic and audio-visual equipment for dorms, paint for murals, and computers for inmate use. Supplies to facilitate community model training were also procured to support Peer-to-Peer program dorms statewide and SSCIs.

Wellness Programs

To support the 34 wellness education specialist positions appropriated during the 2020 Session, funds from the Trust Fund were utilized to equip wellness programs statewide. Items include:

- Building materials to repair and enhance recreation pavilions, running/walking tracks, and recreation fields
- Wellness education material and equipment/furniture for wellness education programs
- A statewide wellness coordinator position was provided in OPS status to oversee newly established wellness education programs statewide
- Board games (e.g., checkers, chess, scrabble) for recreation and to be used during family visitation with inmates' children and loved ones

- Recreation and sports equipment

Additionally, the Department implemented incentivized programs at four correctional institutions (CIs) during FY 20-21: Jefferson CI, Lowell CI, Madison CI, and Marion CI. The implementation of these programs involved the purchase of electronic and audio-visual equipment for dorms and recreational wellness equipment and supplies.

Work-Release Program Equipment

Gender-appropriate bicycles in various sizes were procured for inmates traveling to and from work-release employment.

2. EFFECT OF THE BILL:

Effective July 1, 2022, a total of up to \$30,000,000 of net proceeds shall be deposited into the Trust Fund. Proceeds collected in excess of this amount shall be deposited into the General Revenue Fund. Proceeds will be used at state-operated correctional institutions for the benefit and welfare of inmates.

The bill also amends s. 945.215(2)(c), F.S., creating an additional category to allow funds from the Trust Fund to be utilized to provide environmental wellness upgrades to facilities to include fixed capital outlay repairs and maintenance which would improve environmental conditions of the facilities.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	The Florida Department of Corrections. The Trust Fund expands vital efforts to engage the incarcerated population in programming to develop, improve, and prepare them to return to their communities upon release as productive citizens who engage in positive lifestyle habits.
Opponents and summary of position:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	Note, s. 945.215(2)(e), F.S., directs the Department to compile a report annually, at both statewide and institutional levels, documenting receipts and expenditures from the Trust Fund. The Department must submit the report to the Executive Office of the Governor and chairs of the appropriate substantive fiscal committees of the Senate and House of Representatives.
Date Due:	October 1 of each year
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☒ N ☐

Revenues:	Deposits into the Trust Fund from current existing revenue streams shall be restricted to a specified amount of \$30 million in any fiscal year. Funds collected in excess of this limit shall be deposited into the General Revenue Fund.
Expenditures:	Expenditures may only be made pursuant to legislative appropriation and are capped at a specified amount of \$30 million.
Does the legislation contain a State Government appropriation?	Yes
If yes, was this appropriated last year?	\$2.5 million was appropriated in the re-establishment of the Trust Fund in FY 20-21, per s. 945.215(2)(b), F.S.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☐ N ☒

Revenues:	
Expenditures:	

Other:	
--------	--

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

ADDITIONAL COMMENTS

N/A

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

N/A



FLORIDA
DEPARTMENT of
CORRECTIONS

Governor
RON DESANTIS
Secretary
MARK S. INCH

501 South Calhoun Street, Tallahassee, FL 32399-2500

www.dc.state.fl.us

October 1, 2021

The Honorable Ron DeSantis
Governor of Florida
Executive Office of the Governor
400 South Monroe Street
Tallahassee, Florida 32399

The Honorable Kelli Stargel
Chair, Senate Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399

The Honorable Jason Pizzo
Chair, Senate Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399

The Honorable Jay Trumbull
Chair, House Appropriations Committee
221 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399

The Honorable Robert Charles Brannan
Chair, House Criminal Justice and Public
Safety Subcommittee
417 House Office Building
402 South Monroe Street
Tallahassee, Florida 32399

Re: State-Operated Institutions Inmate Welfare Trust Fund

Dear Governor DeSantis, Chairs Stargel, Pizzo, Trumbull and Brannan:

In accordance with Chapter 2020-98, Laws of Florida, the Florida Department of Corrections submits the enclosed report regarding the State-Operated Institutions Inmate Welfare Trust Fund.

Sincerely,

Mark S. Inch
Secretary



State-Operated Institutions Inmate Welfare Trust Fund Report

October 1, 2021

Chapter 2020-98, Laws of Florida, directs the Florida Department of Corrections (FDC or Department) to annually compile a report that documents State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) receipts and expenditures. This report must be compiled at both the statewide and institutional levels. The department must submit the report for the previous fiscal year by October 1 of each year to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives.

OVERVIEW

The State-Operated Institutions Inmate Welfare Trust Fund authorized under s. 945.215, Florida Statutes, enables FDC to purchase items to improve inmate health and well-being, decrease inmate idleness and improve safety within Florida's prisons, and reduce recidivism. Inmate idleness and violence are reduced when inmates are provided with programming opportunities such as education, vocation, and substance use, along with the opportunity to participate in recreation and wellness activities.

The Trust Fund expands vital efforts to engage the incarcerated population in programming to develop, improve, and prepare them to return to their communities upon release as productive citizens who engage in positive lifestyle habits.

The following table details the Trust Fund revenue and expenditures for Fiscal Year 20-21:

Total Revenues	\$2,500,000
8% General Revenue Service Charge	\$(200,000)
Total Expenditures	\$2,300,000

The following information highlights how FDC invested the resources provided by the Trust Fund during Fiscal Year 20-21.

LITERACY AND EDUCATION PROGRAMMING

To provide support to struggling readers and English Language Learners (ELL), 14 OPS Academic Teacher positions focused on Literacy/ELL were funded. Additionally, the following classroom resources were procured to enhance reading and ELL instruction:

- Teacher's Kits including materials to prepare and deliver research-based direct instruction lessons to struggling readers and ELL
- Skill-based lessons to teach students fundamental reading strategies
- Assessment-driven software programs to provide additional instruction on specific skills that inhibit students' reading success

VOCATIONAL PROGRAMS

Training simulators to prepare inmates for employment in high-demand careers such as commercial driving and heavy equipment operations were procured.

INMATE CHAPELS AND LIBRARIES

Chaplaincy Services provide the opportunity for inmates to participate in religious activities and programs. The following were procured to enhance chaplaincy programs:

- Upgrades to chapel sound systems
- Televisions and DVD players

The Department provides inmates with access to comprehensive library services to include current print and non-print materials, reference services, reading guidance, educational and cultural programming, extension services for inmates unable to visit the library, and resources and services to support activities of other education and treatment programs. The following additional resources were procured to enhance library services:

- Literature enhancements to address aging library collection
- World Book Encyclopedia sets

SUBSTANCE USE TREATMENT PROGRAMS

Department operated in-prison Substance Use Treatment programs utilized the Trust Fund to enhance existing programming for the following substance use programs:

- Residential Therapeutic Community
- Intensive Outpatient Program
- Outpatient Programs

Interactive journals were also procured for use in the Administrative Management Unit at Jefferson CI, Short Sentence Correctional Institutions/Units (SSCIs) and Re-Entry Centers statewide. SSCIs also received composition notebooks, televisions for dorm day rooms, paint for murals, and computers for inmate use. Supplies to facilitate community model training were also procured to support Peer-to-Peer program dorms statewide and SSCIs.

WELLNESS PROGRAMS

To support the 34 wellness education specialist positions appropriated during the 2020 Session, funds from the Trust Fund were utilized to equip wellness programs statewide. Items include:

- Building materials to repair and enhance recreation pavilions, running/walking tracks, and recreation fields
- Wellness education material and equipment/furniture for wellness education programs

- A statewide wellness coordinator position was provided in OPS status to oversee newly established wellness education programs statewide
- Board games (e.g. checkers, chess, scrabble) for recreation and to be used during family visitation with inmates' children and loved ones
- Recreation and sports equipment

Additionally, FDC implemented incentivized programs at four correctional institutions (CIs) during FY 20-21: Jefferson CI, Lowell CI, Madison CI, and Marion CI. The implementation of these programs involved the purchase of televisions for dorms and recreational equipment and supplies.

WORK-RELEASE PROGRAM EQUIPMENT

Gender-appropriate bicycles in various sizes were procured for inmates traveling to and from work-release employment.

FISCAL YEAR 20-21 EXPENDITURES

The chart below details expenditures by statewide and institutional levels.

FISCAL YEAR 20-21 EXPENDITURES

Institutions	Literacy & Education	Vocational Programs	Chaplaincy	Library Services	Substance Use Treatment	Wellness Programs	Work-Release Program Equipment	Grand Total
Apalachee CI	\$291		\$2,180		\$979	\$47,065		\$50,516
Avon Park CI			\$537	\$1,479	\$966	\$44,147		\$47,128
Baker CI			\$1,871		\$477	\$22,348	\$3,354	\$28,049
Calhoun CI			\$1,431	\$599		\$1,874		\$3,903
Central Office	\$1,595	\$777			\$200,000	\$116,501		\$318,872
Century CI			\$935	\$ 599		\$11,688		\$13,222
CFRC	\$8,414		\$2,473	\$2,622	\$625	\$16,871	\$5,706	\$36,712
Charlotte CI			\$935	\$766		\$3,846		\$5,547
Columbia CI			\$1,871		\$477	\$48,360	\$1,919	\$52,626
Cross City CI			\$761	\$1,093	\$554	\$22,092		\$24,500
Dade CI			\$1,160	\$839		\$31,380		\$33,379
Desoto CI	\$6,661		\$1,160	\$839	\$765	\$39,956		\$49,381
Everglades CI	\$3,968		\$2,320	\$1,457		\$13,017		\$20,761
Franklin CI			\$935		\$1,438	\$19,537		\$21,910
FSP			\$1,871	\$2,025	\$1,244	\$29,469		\$34,610
FWRC			\$935	\$599	\$1,720	\$5,130		\$8,384
Gadsden Re-Entry			\$935			\$3,797		\$4,732
Gulf CI			\$537	\$599		\$1,050		\$2,185
Hamilton CI	\$14,877		\$1,073	\$2,228	\$10,743	\$37,639		\$66,559
Hardee CI	\$11,879		\$1,034			\$33,714		\$46,628
Hernando CI	\$15,343	\$ 147,850	\$440	\$1,264		\$5,384		\$170,281
Holmes CI			\$935		\$555	\$18,673		\$20,163
Homestead CI			\$935			\$6,025		\$6,961
Jackson CI			\$935		\$1,924	\$60,105		\$62,964
Jefferson CI	\$20,671		\$935	\$599		\$53,308	\$2,894	\$78,407
Lake CI			\$1,160	\$902	\$510	\$23,913		\$26,486
Lancaster CI			\$1,160	\$1,270	\$602	\$22,789	\$2,918	\$28,740
Lawtey CI			\$935	\$1,071		\$487		\$2,494

FY20-21 EXPENDITURES (CONTINUED)

Institutions	Literacy & Education	Vocational Programs	Chaplaincy	Library Services	Substance Use Treatment	Wellness Programs	Work-Release Program Equipment	Grand Total
Liberty CI			\$2,095	\$1,526	\$553	\$20,411		\$24,584
Lowell CI	\$14,701		\$1,871		\$681	\$121,068		\$138,321
Madison CI	\$24,247		\$935			\$26,165		\$51,347
Marion CI	\$26,918	\$147,850	\$537		\$751	\$80,513		\$256,568
Martin CI	\$16,549		\$1,334			\$15,459	\$2,223	\$35,564
Mayo Annex			\$935	\$599		\$1,624		\$3,158
New River			\$761	\$1,529	\$525	\$18,282		\$21,096
NWFRC	\$21,505		\$2,095	\$1,483	\$3,941	\$61,942	\$1,994	\$92,960
Okaloosa CI			\$935	\$1,050		\$6,028		\$8,013
Okeechobee CI			\$1,871	\$599		\$15,226		\$17,695
Polk CI	\$6,802		\$935		\$537	\$32,607		\$40,881
Putnam CI			\$935	\$599		\$2,394		\$3,929
RMC			\$2,095	\$1,438	\$555	\$27,236		\$31,324
Santa Rosa CI	\$8,217	\$134,500	\$2,095	\$1,438	\$93	\$15,495		\$161,839
SFRC			\$1,871		\$7,670	\$16,783		\$26,324
Sumter CI			\$935	\$1,775	\$2,334	\$5,736		\$10,781
Suwannee CI			\$2,095	\$1,438	\$1,487	\$21,603		\$26,623
Taylor CI			\$1,073		\$745	\$18,063		\$19,881
Tomoka CI			\$935			\$445		\$1,380
Union CI			\$1,160	\$2,692	\$743	\$14,474		\$19,069
Wakulla CI			\$1,871		\$553	\$27,609		\$30,032
Walton CI			\$935	\$599		\$2,349		\$3,883
Zephyrhills CI			\$935	\$599		\$6,135	\$980	\$8,650
STATEWIDE	\$202,638	\$430,977	\$63,636	\$38,210	\$244,744	\$1,297,808	\$21,987	\$2,300,000
8% General Revenue Service Charge								\$200,000
Grand Total								\$2,500,000

Note: Central Office totals include: educational software, uniforms and licenses for CDL program, curriculum for substance use treatment programs, and statewide wellness coordinator position costs.